INTERNATIONAL COURT OF JUSTICE

Yearbook
1998-1999

No. 53

I.C.J. - THE HAGUE - 1999

YEARBOOK

1998-1999

International Court of Justice, Peace Palace,
2517 KJ The Hague, Netherlands
Tel. (+3170) 302 23 23   Fax: (+3170) 364 99 28
E-mail: mail@icj-cij.org   Website: http://www.icj-cij.org

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In March 1947 the International Court of Justice instructed the Registrar to publish a *Yearbook* providing general information concerning its organization, jurisdiction, activities and administration.

The present volume — fifty-third of the series — covers the period from 1 August 1998 to 31 July 1999.

The *Yearbook* is prepared by the Registry and in no way involves the responsibility of the Court; in particular, the summaries of judgments, advisory opinions and orders contained in Chapter VI cannot be quoted against the actual texts of those judgments, advisory opinions and orders and do not constitute an interpretation of them.

Eduardo VALENCIA-OSPINA,
Registrar of the Court.

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INTRODUCTION

The *International Court of Justice*, which has its seat in The Hague, is the principal judicial organ of the United Nations.

It had as its predecessor the *Permanent Court of International Justice*, which was instituted by the League of Nations in 1920 and was dissolved in 1946.

I. Basic Texts

The constitutional texts of the Court are the Charter of the United Nations and the Statute of the Court. Other basic texts are the Rules of Court and the resolution concerning the internal judicial practice of the Court.

1. Charter of the United Nations

The International Court of Justice was brought into being by the Charter of the United Nations, signed at San Francisco on 26 June 1945. The Charter deals with the Court in Article 7, paragraph 1, Article 36, paragraph 3, and Articles 92-96, which form Chapter XIV.

2. Statute of the International Court of Justice

(a) *Text of the Statute*

By virtue of Article 92 of the Charter of the United Nations, the Statute of the Court is annexed to the Charter, of which it forms an integral part. The text of the Statute, which also was signed at San Francisco on 26 June 1945, is published by the Court in the volume *I.C.J. Acts and Documents No. 5*, pages 60-89.

The above-mentioned Article indicates that the Statute is based upon that of the *Permanent Court of International Justice*. The modifications are few in number, most of them being formal adaptations designed to take account of the replacement of the League of Nations by the United Nations. The *I.C.J. Yearbook 1946-1947*, pages 101-102, gives a list of the articles modified.

(b) *States parties to the Statute*

Article 93 of the Charter provides:

> "1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
>
> 2. A State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice

> on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council."

The States parties to the Statute are listed in Chapter III, pages 69-75, of this *Yearbook*.

(c) *Amendments to the Statute*

According to Article 69 of the Statute, amendments to that instrument may be effected by the same procedure as is provided for amendments to the Charter. This procedure is set out in Chapter XVIII of the Charter (Arts. 108-109). Article 108 provides that amendments to the Charter "shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council".

Article 69 of the Statute also specifies that provisions concerning the participation in the amendment procedure of States which are parties to the Statute but are not members of the United Nations may be adopted by the General Assembly upon recommendation of the Security Council (see Chap. III, pp. 74-75, below).

Furthermore, Article 70 of the Statute empowers the Court to propose of its own accord such amendments to the Statute as it may deem necessary.

No amendments have so far been made to the Statute.

3. *Rules of Court*

Article 30 of the Statute provides that "the Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure."

Rules of Court were adopted on 6 May 1946, and were published by the Court in the volume *I.C.J. Acts and Documents No. 1*, second edition, pages 54-83. They were based on the latest text of the Rules of the *Permanent Court*, that of 11 March 1936, with certain changes, formal and substantive, a list of which was given in *I.C.J. Yearbook 1946-1947*, pages 102-103.

From 1946 to 1972 the Rules remained unchanged, although from time to time the Court, which keeps its procedure under constant review, considered their modification. In 1967 a revision was undertaken (see *I.C.J. Yearbook 1967-1968*, p. 87; *I.C.J. Yearbook 1969-1970*, p. 114; *I.C.J. Yearbook 1970-1971*, pp. 109-110) and on 10 May 1972 the Court adopted some partial amendments of immediate interest. Amended and partly renumbered Rules of Court (see *I.C.J. Acts and Documents No. 3*, pp. 92-149) thus came into force on 1 September 1972. A Note by the Registry (*Background Note IV*, or see *I.C.J. Yearbook 1971-1972*, pp. 3-11) indicates the changes and gives a table of concordance between the 1946 Rules and those of 1972.

The work of revision was subsequently resumed, and culminated on 14 April 1978 in the adoption of a new set of Rules. These Rules of Court came into force on 1 July 1978 and as from that date replaced the 1972 amended version of those adopted in 1946. They were first published in *I.C.J. Acts and Documents No. 4* concurrently with the issue of *I.C.J. Background Note V*, entitled "Note by the Registry on the Revised Rules of Court (1978)", which includes a table of concordance as between the respective articles of the new set and its predecessor. For a rather more detailed account of the background the reader is referred to pages 111-119 of *I.C.J. Yearbook 1977-1978*, which feature an analytical table enabling the structure of the new set of Rules to be compared with that of the 1946 and 1972 sets, and a table of concordance as between the specific articles of the 1978, 1972 and 1946 Rules of Court. The current publication containing the 1978 Rules of Court is *I.C.J. Acts and Documents No. 5* (pp. 91-161).

II. Chronological Survey

The Charter of the United Nations and the Statute of the Court entered into force on 24 October 1945.

After the election of its Members, on 6 February 1946, the Court met for the first time in The Hague on 1 April of the same year.

The first case entered in the General List of the Court (*Corfu Channel (United Kingdom* v. *Albania)*) was submitted on 22 May 1947.

Between then and 31 July 1999 the Court has had to deal with a total of 117 cases, i.e., 94 contentious cases and 23 advisory cases, as listed below. In those cases it gave 68 judgments, of which 40 were on the merits, and 24 advisory opinions. Of the 342 orders made therein, 249 related solely to the fixing or extending of time-limits, while 309 orders related to contentious cases and 33 to advisory cases.

Title	*Dates*
(*a*) Contentious[1]	
Corfu Channel (United Kingdom v. *Albania)*	1947-1949
Fisheries (United Kingdom v. *Norway)*	1949-1951
Protection of French Nationals and Protected Persons in Egypt (France v. *Egypt)*	1949-1950
Asylum (Colombia/Peru)	1949-1950
Rights of Nationals of the United States of America in Morocco (France v. *United States of America)*	1950-1952

---

[1] In the case of proceedings instituted by means of a special agreement the names of the parties are separated by an oblique stroke.

Title	*Dates*
Request for Interpretation of the Judgment of 20 November 1950 in the Asylum case (Colombia v. Peru)	1950
Haya de la Torre (Colombia v. Peru)	1950-1951
Ambatielos (Greece v. United Kingdom)	1951-1953
Anglo-Iranian Oil Co. (United Kingdom v. Iran)	1951-1952
Minquiers and Ecrehos (France/United Kingdom)	1951-1953
Nottebohm (Liechtenstein v. Guatemala)	1951-1955
Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America)	1953-1954
Electricité de Beyrouth Company (France v. Lebanon)	1953-1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. Hungary)	1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. USSR)	1954
Aerial Incident of 10 March 1953 (United States of America v. Czechoslovakia)	1955-1956
Antarctica (United Kingdom v. Argentina)	1955-1956
Antarctica (United Kingdom v. Chile)	1955-1956
Aerial Incident of 7 October 1952 (United States of America v. USSR)	1955-1956
Certain Norwegian Loans (France v. Norway)	1955-1957
Right of Passage over Indian Territory (Portugal v. India)	1955-1960
Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. Sweden)	1957-1958
Interhandel (Switzerland v. United States of America)	1957-1959
Aerial Incident of 27 July 1955 (Israel v. Bulgaria)	1957-1959
Aerial Incident of 27 July 1955 (United States of America v. Bulgaria)	1957-1960
Aerial Incident of 27 July 1955 (United Kingdom v. Bulgaria)	1957-1959
Sovereignty over Certain Frontier Land (Belgium/Netherlands)	1957-1959
Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua)	1958-1960
Aerial Incident of 4 September 1954 (United States of America v. USSR)	1958
Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)	1958-1961

Title	*Date*
Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. Lebanon)	1959-1960
Aerial Incident of 7 November 1954 (United States of America v. USSR)	1959
Temple of Preah Vihear (Cambodia v. Thailand)	1959-1962
South West Africa (Ethiopia v. South Africa; Liberia v. South Africa)	1960-1966
Northern Cameroons (Cameroon v. United Kingdom)	1961-1963
Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain)	1962-1970
North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)	1967-1969
Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)	1971-1972
Fisheries Jurisdiction (United Kingdom v. Iceland)	1972-1974
Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)	1972-1974
Nuclear Tests (Australia v. France)	1973-1974
Nuclear Tests (New Zealand v. France)	1973-1974
Trial of Pakistani Prisoners of War (Pakistan v. India)	1973
Aegean Sea Continental Shelf (Greece v. Turkey)	1976-1978
Continental Shelf (Tunisia/Libyan Arab Jamahiriya)	1978-1982
United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)	1979-1981
Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) [case referred to a Chamber]	1981-1984
Continental Shelf (Libyan Arab Jamahiriya/Malta)	1982-1985
Frontier Dispute (Burkina Faso/Republic of Mali) [case referred to a Chamber]	1983-1986
Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)	1984-1991
Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia v. Libyan Arab Jamahiriya)*	1984-1985
Border and Transborder Armed Actions (Nicaragua v. Costa Rica)	1986-1987
Border and Transborder Armed Actions (Nicaragua v. Honduras)	1986-1992

Title	*Dates*
Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) [case referred to a Chamber][1]	1986-1992
Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)* [case referred to a Chamber]	1987-1989
Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway)*	1988-1993
Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America)*	1989-1996
Certain Phosphate Lands in Nauru (Nauru v. *Australia)*	1989-1993
Arbitral Award of 31 July 1989 (Guinea-Bissau v. *Senegal)*	1989-1991
Territorial Dispute (Libyan Arab Jamahiriya/Chad)	1990-1994
East Timor (Portugal v. *Australia)*	1991-1995
Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. *Senegal)*	1991-1995
Passage through the Great Belt (Finland v. *Denmark)*	1991-1992
Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*	1991-
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)*	1992-
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America)*	1992-
Oil Platforms (Islamic Republic of Iran v. *United States of America)*	1992-
Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia)*	1993-
Gabčíkovo-Nagymaros Project (Hungary/Slovakia)	1993-
Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. *Nigeria)*	1994-
Fisheries Jurisdiction (Spain v. *Canada)*	1995-1998
Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) *Case*	1995
Kasikili/Sedudu Island (Botswana/Namibia)	1996-
Vienna Convention on Consular Relations (Paraguay v. *United States of America)*	1998

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[1] The intervention of Nicaragua was admitted on 13 September 1990 (see *I.C.J. Yearbook 1990-1991*, pp. 160-174).

Title	*Dates*
Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (*Nigeria* v. *Cameroon*)	1998-1999
Sovereignty over Pulau Ligitan and Pulau Sipadan (*Indonesia/Malaysia*)	1998-
Ahmadou Sadio Diallo (*Republic of Guinea* v. *Democratic Republic of the Congo*)	1998-
LaGrand (*Germany* v. *United States of America*)	1999-
Legality of Use of Force (*Yugoslavia* v. *Belgium*)	1999-
Legality of Use of Force (*Yugoslavia* v. *Canada*)	1999-
Legality of Use of Force (*Yugoslavia* v. *France*)	1999-
Legality of Use of Force (*Yugoslavia* v. *Germany*)	1999-
Legality of Use of Force (*Yugoslavia* v. *Italy*)	1999-
Legality of Use of Force (*Yugoslavia* v. *Netherlands*)	1999-
Legality of Use of Force (*Yugoslavia* v. *Portugal*)	1999-
Legality of Use of Force (*Yugoslavia* v. *Spain*)	1999
Legality of Use of Force (*Yugoslavia* v. *United Kingdom*)	1999-
Legality of Use of Force (*Yugoslavia* v. *United States of America*)	1999
Armed Activities on the Territory of the Congo (*Democratic Republic of the Congo* v. *Burundi*)	1999-
Armed Activities on the Territory of the Congo (*Democratic Republic of the Congo* v. *Uganda*)	1999-
Armed Activities on the Territory of the Congo (*Democratic Republic of the Congo* v. *Rwanda*)	1999-
Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Croatia* v. *Yugoslavia*)	1999-

(*b*) Advisory

Conditions of Admission of a State to Membership in the United Nations (*Article 4 of the Charter*)	1947-1948
Reparation for Injuries Suffered in the Service of the United Nations	1948-1949
Interpretation of Peace Treaties with Bulgaria, Hungary and Romania	1949-1950
Competence of the General Assembly for the Admission of a State to the United Nations	1949-1950
International Status of South West Africa	1949-1950
Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide	1950-1951

Title	Date
Effect of Awards of Compensation Made by the United Nations Administrative Tribunal	1953-1954
Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa	1954-1955
Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco	1955-1956
Admissibility of Hearings of Petitioners by the Committee on South West Africa	1955-1956
Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization	1959-1960
Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)	1961-1962
Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)	1970-1971
Application for Review of Judgement No 158 of the United Nations Administrative Tribunal	1972-1973
Western Sahara	1974-1975
Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt	1980
Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal	1981-1982
Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal	1984-1987
Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947	1988
Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations	1989
Legality of the Use by a State of Nuclear Weapons in Armed Conflict	1993-1996
Legality of the Threat or Use of Nuclear Weapons	1994-1996
Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights	1998-1999

CHAPTER I

ORGANIZATION OF THE COURT

The organization of the International Court of Justice is governed by Articles 2-33 of the Statute of the Court and by Articles 1-18 and 32-37 of the Rules of Court.

I. MEMBERS OF THE COURT

1. Composition of the Court[1]

The Court consists of 15 Members (Statute, Art. 3, para. 1).

On 31 July 1999 the composition of the Court was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President S. M. Schwebel	United States	5 February 2006[2]
Vice-President C. G. Weeramantry	Sri Lanka	5 February 2000[2]
Judges S. Oda	Japan	5 February 2003
M. Bedjaoui	Algeria	5 February 2006
G. Guillaume	France	5 February 2000
R. Ranjeva	Madagascar	5 February 2000
G. Herczegh	Hungary	5 February 2003
Shi Jiuyong	China	5 February 2003
C.-A. Fleischhauer	Germany	5 February 2003
A. G. Koroma	Sierra Leone	5 February 2003
V. S. Vereshchetin	Russian Federation	5 February 2006
R. Higgins	United Kingdom	5 February 2000
G. Parra-Aranguren	Venezuela	5 February 2000
P. H. Kooijmans	Netherlands	5 February 2006
F. Rezek	Brazil	5 February 2006

The Members of the Court are elected for nine years, one-third of the total number of judges being elected every three years; they may be re-elected (Statute, Art. 13). In the event of a vacancy, an election is held and the new judge holds office for the remainder of his predecessor's term (Statute, Arts. 14 and 15). Though replaced, Members of the Court finish any cases they have begun (Statute, Art. 13, para. 3).

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[1] For the composition of chambers, see pp. 18-19, below.

[2] The terms of office of Judges Schwebel and Weeramantry as President and Vice-President respectively expire in 2000.

As required by Article 7 of the Statute, the Secretary-General of the United Nations prepares for each election a list of the persons nominated in accordance with Articles 5 and 6. The election is held by the General Assembly and the Security Council of the United Nations, proceeding independently of each other and simultaneously (Statute, Arts. 8-12). The States parties to the Statute of the Court which are not members of the United Nations take part in the election by the General Assembly in the same manner as Members of the United Nations (General Assembly resolution 264 (III) of 8 October 1948, see Chap. III, p. 74, below).

Members of the Court elected during the same session of the General Assembly whose terms of office begin on the same date take precedence according to seniority of age. Members elected at a previous session take precedence; in the event of immediate re-election a Member retains his former precedence (Rules, Art. 3, paras. 2-4).

The Court elects its President and Vice-President; they are both elected for three years and take precedence over the other judges (Statute, Art. 21, para. 1; Rules, Art. 3, para. 5, Arts. 10-14, Art. 18, para. 2, and Art. 32).

2. *Former Presidents and Vice-Presidents and Former Members of the Court*

The following judges served as President or Vice-President before the present holders of those offices.

1946-1949, J. G. Guerrero and J. Basdevant;
1949-1952, J. Basdevant and J. G. Guerrero[1];
1952-1955, Sir Arnold McNair and J. G. Guerrero[1];
1955-1958, G. H. Hackworth and A. H. Badawi[2];
1958-1961, H. Klaestad and Sir Muhammad Zafrulla Khan;
1961-1964, B. Winiarski and R. J. Alfaro;
1964-1967, Sir Percy Spender and V. K. Wellington Koo;
1967-1970, J. L. Bustamante y Rivero and V. M. Koretsky;

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[1] While he was Vice-President of the Court, Judge Guerrero acted as President, by virtue of Article 13, paragraphs 1 and 2, of the 1946 Rules, in the following cases: *Corfu Channel* (*United Kingdom v. Albania*); *Protection of French Nationals and Protected Persons in Egypt* (*France v. Egypt*); *Rights of Nationals of the United States of America in Morocco* (*France v. United States of America*); *Ambatielos* (*Greece v. United Kingdom*); *Anglo-Iranian Oil Co.* (*United Kingdom v. Iran*); *Minquiers and Ecrehos* (*France/United Kingdom*); *Monetary Gold Removed from Rome in 1943* (*Italy v. France, United Kingdom and United States of America*).

[2] While he was Vice-President of the Court, Judge Badawi acted as President, by virtue of Article 13, paragraph 1, of the 1946 Rules, in the cases concerning *Interhandel* (*Switzerland v. United States of America*), *Interim Protection*, and *Aerial Incident of 27 July 1955* (*United States of America v. Bulgaria*).

1970-1973, Sir Muhammad Zafrulla Khan and F. Ammoun[1];

1973-1976, M. Lachs and F. Ammoun[1];

1976-1979, E. Jiménez de Aréchaga and Nagendra Singh;

1979-1982, Sir Humphrey Waldock[2] and T. O. Elias[3];

1982-1985, T. O. Elias[4] and J. Sette-Camara;

1985-1988, Nagendra Singh and G. Ladreit de Lacharrière[5];

1988-1991, J. M. Ruda and K. Mbaye;

1991-1994, Sir Robert Jennings[6] and S. Oda[6];

1994-1997, M. Bedjaoui and S. M. Schwebel.

Apart from the present judges, the following have been Members of the Court (the names of those who have died are preceded by an asterisk):

	Country	*Period of Office*
* R. Ago	Italy	1979-1995
* A. Aguilar-Mawdsley	Venezuela	1991-1995
Prince B. A. Ajibola	Nigeria	1991-1994
* R. J. Alfaro	Panama	1959-1964
* A. Alvarez	Chile	1946-1955
* F. Ammoun	Lebanon	1965-1976
* E. C. Armand-Ugon	Uruguay	1952-1961
* Ph. Azevedo	Brazil	1946-1951
* A. H. Badawi	Egypt	1946-1965

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[1] While he was Vice-President of the Court, Judge Ammoun acted as President, by virtue of Article 11 and Article 13, paragraph 1, of the then Rules of Court, in *Appeal Relating to the Jurisdiction of the ICAO Council*, *Nuclear Tests (Australia v. France), Interim Protection*, and *Nuclear Tests (New Zealand v. France), Interim Protection*.

[2] Sir Humphrey Waldock died on 15 August 1981. The functions of the Presidency were thereafter exercised by T. O. Elias as Acting President, by virtue of Article 13, paragraph 1, and Article 14 of the 1978 Rules of Court.

[3] Vice-President Elias was for a time Acting President in *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and in the proceedings relating to the Orders made on 20 January and 1 February 1982 in *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*.

[4] Judge Elias continued to act as President in *Continental Shelf (Libyan Arab Jamahiriya/Malta)* after 5 February 1985, by virtue of Article 32, paragraph 2, of the 1978 Rules of Court.

[5] Judge Ladreit de Lacharrière died on 10 March 1987. On 6 May 1987 the Court elected Judge Mbaye to be its Vice-President for the remainder of his predecessor's term.

[6] While he was President of the Court, Sir Robert Jennings, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*. Vice-President Oda exercised the functions of the Presidency in that case, as well as in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*. (See *I.C.J. Yearbook 1991-1992*, p. 198.)

* J. Basdevant	France	1946-1964
* R. R. Baxter	United States	1979-1980
* C. Bengzon	Philippines	1967-1976
* J. L. Bustamante y Rivero	Peru	1961-1970
* L. F. Carneiro	Brazil	1951-1955
* F. de Castro	Spain	1970-1979
* R. Cordova	Mexico	1955-1964
* Ch. De Visscher	Belgium	1946-1952
* H. C. Dillard	United States	1970-1979
* A. El-Erian	Egypt	1979-1981
A. El-Khani	Syria	1981-1985
* T. O. Elias	Nigeria	1976-1991
J. Evensen	Norway	1985-1994
* I. Fabela	Mexico	1946-1952
L. Ferrari Bravo	Italy	1995-1997
* Sir Gerald Fitzmaurice	United Kingdom	1960-1973
* I. Forster	Senegal	1964-1982
* S. A. Golunsky	USSR	1952-1953
A. Gros	France	1964-1984
* J. G. Guerrero	El Salvador	1946-1958
* G. H. Hackworth	United States	1946-1961
* Hsu Mo	China	1946-1956
* L. Ignacio-Pinto	Benin	1970-1979
Sir Robert Yewdall Jennings	United Kingdom	1982-1995
* P. C. Jessup	United States	1961-1970
* E. Jiménez de Aréchaga	Uruguay	1970-1979
* H. Klaestad	Norway	1946-1961
* F. I. Kojevnikov	USSR	1953-1961
* V. M. Koretsky	USSR	1961-1970
* S. B. Krylov	USSR	1946-1952
* M. Lachs	Poland	1967-1993
* G. Ladreit de Lacharrière	France	1982-1987
* Sir Hersch Lauterpacht	United Kingdom	1955-1960
* Sir Arnold McNair	United Kingdom	1946-1955
K. Mbaye	Senegal	1982-1991
* G. Morelli	Italy	1961-1970
* L. M. Moreno Quintana	Argentina	1955-1964
* P. D. Morozov	USSR	1970-1985

H. Mosler	Fed. Rep. of Germany	1976-1985
* Nagendra Singh	India	1973-1988
Ni Zhengyu	China	1985-1994
C. D. Onyeama	Nigeria	1967-1976
* L. Padilla Nervo	Mexico	1964-1973
R. S. Pathak	India	1989-1991
* S. Petrén	Sweden	1967-1976
* Sir Benegal Rau	India	1952-1953
* J. E. Read	Canada	1946-1958
* J. M. Ruda	Argentina	1973-1991
J. Sette-Camara	Brazil	1979-1988
M. Shahabuddeen	Guyana	1988-1997
* Sir Percy C. Spender	Australia	1958-1967
* J. Spiropoulos	Greece	1958-1967
* K. Tanaka	Japan	1961-1970
* N. K. Tarassov	Russian Federation	1985-1995
* S. Tarazi	Syria	1976-1980
* Sir Humphrey Waldock	United Kingdom	1973-1981
* V. K. Wellington Koo	China	1957-1967
* B. Winiarski	Poland	1946-1967
* Sir Muhammad Zafrulla Khan	Pakistan	1954-1961 and 1964-1973
* M. Zoričić	Yugoslavia	1946-1958

II. JUDGES *AD HOC*

If in a case the Court, or a chamber of the Court, includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge; similarly, if the Court or the chamber includes upon the Bench no judge of the nationality of the parties, each of these parties may choose a judge (Statute, Art. 31; Rules, Arts. 7-8, Art. 17, para. 2, Arts. 35-37, Art. 91, para. 2, and Art. 102, para. 3). Should there be several parties in the same interest they are reckoned for this purpose as one party only (Statute, Art. 31, para. 5; Rules, Art. 36 and Art. 37, para. 2).

Since the institution of the Court, judges *ad hoc* have been chosen in the following cases (unless otherwise indicated, they held the nationality of the appointing party):

Corfu Channel (United Kingdom v. *Albania)*. Albania chose Mr. I. Daxner (Czechoslovakia), who sat upon the Bench when the preliminary objection was heard, and Mr. B. Ečer (Czechoslovakia), who sat when the case was heard on the merits and also for the assessment of amount of compensation.

Asylum (Colombia/Peru), Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. Peru) and *Haya de la Torre (Colombia v. Peru)*. Mr. J. J. Caicedo Castilla was chosen by Colombia and Mr. L. Alayza y Paz Soldan by Peru.

Ambatielos (Greece v. United Kingdom). Mr. J. Spiropoulos was chosen by Greece.

Anglo-Iranian Oil Co. (United Kingdom v. Iran). Mr. K. Sandjabi was chosen by Iran.

Nottebohm (Liechtenstein v. Guatemala). Mr. C. Garcia Bauer[1] was chosen by Guatemala and Mr. P. Guggenheim (Switzerland) by Liechtenstein.

Monetary Gold Removed from Rome in 1943 (Italy v. France, United Kingdom and United States of America). Mr. G. Morelli was chosen by Italy.

Right of Passage over Indian Territory (Portugal v. India). Mr. M. Fernandes was chosen by Portugal and the Hon. M. A. C. Chagla by India.

Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. Sweden). Mr. J. Offerhaus was chosen by the Netherlands and Mr. F. J. C. Sterzel by Sweden.

Interhandel (Switzerland v. United States of America). Mr. P. Carry was chosen by Switzerland.

Aerial Incident of 27 July 1955 (Israel v. Bulgaria). Mr. Justice Goitein was chosen by Israel and Mr. J. Zourek (Czechoslovakia) by Bulgaria.

Aerial Incident of 27 July 1955 (United States of America v. Bulgaria)[2]. Mr. J. Zourek (Czechoslovakia) was chosen by Bulgaria.

Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. Nicaragua). Mr. R. Ago (Italy) was chosen by Honduras and Mr. F. Urrutia Holguin (Colombia) by Nicaragua.

Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)[2]. Mr. W. J. Ganshof van der Meersch was chosen by Belgium and Mr. F. de Castro by Spain.

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[1] The Government of Guatemala had first chosen as judge ad hoc Mr. J. C. Herrera and subsequently Mr. J. Matos, before choosing Mr. Garcia Bauer.

[2] It was removed from the List before the Court had occasion to sit.

South West Africa (Ethiopia v. South Africa; Liberia v. South Africa). Sir Louis Mbanefo (Nigeria)[1] was chosen by Ethiopia and Liberia and the Hon. J. T. van Wyk by South Africa.

Northern Cameroons (Cameroon v. United Kingdom). Mr. P. Beb a Don was chosen by Cameroon.

Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. Spain). Belgium chose Mr. W. J. Ganshof van der Meersch, who sat upon the Bench when the preliminary objections were heard, and Mr. W. Riphagen (Netherlands), who sat in the second phase. Spain chose Mr. E. C. Armand-Ugon (Uruguay).

North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands). Mr. H. Mosler was chosen by the Federal Republic of Germany and Mr. M. Sørensen (Denmark) by Denmark and the Netherlands.

Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan). Mr. Nagendra Singh was chosen by India.

Nuclear Tests (Australia v. France). Sir Garfield Barwick was chosen by Australia.

Nuclear Tests (New Zealand v. France). Sir Garfield Barwick (Australia) was chosen by New Zealand.

Trial of Pakistani Prisoners of War (Pakistan v. India). Pakistan chose Sir Muhammad Zafrulla Khan, who sat in the proceedings on the request for interim measures up to 2 July 1973, and Mr. Muhammad Yaqub Ali Khan[2].

Western Sahara. Mr. A. Boni (Ivory Coast) was chosen by Morocco.

Aegean Sea Continental Shelf (Greece v. Turkey). Mr. M. Stassinopoulos was chosen by Greece.

Continental Shelf (Tunisia/Libyan Arab Jamahiriya). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya and Mr. J. Evensen (Norway) by Tunisia.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) (case referred to a Chamber). Mr. M. Cohen was chosen by Canada.

Continental Shelf (Libyan Arab Jamahiriya/Malta). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya. Mr. J. Castañeda (Mexico) was chosen by Malta and sat in the proceedings culminating in the Judgment on Italy's application for permission to intervene. Mr. N. Valticos (Greece) was chosen by Malta to sit when the case was heard on the merits.

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[1] The Governments of Ethiopia and Liberia had first chosen as judge *ad hoc* the Hon. J. Chesson, subsequently Sir Muhammad Zafrulla Khan and then Sir Adetokunboh A. Ademola, before choosing Sir Louis Mbanefo.

[2] This case was removed from the List before the Court had occasion to hear argument on the question of its jurisdiction.

Frontier Dispute (Burkina Faso/Republic of Mali) (case referred to a Chamber). Mr. F. Luchaire (France) was chosen by Burkina Faso and Mr. G. Abi-Saab (Egypt) by the Republic of Mali.

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America). Mr. C.-A. Colliard (France) was chosen by Nicaragua.

Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia v. Libyan Arab Jamahiriya)*. Mrs. S. Bastid (France) was chosen by Tunisia and Mr. E. Jimenez de Arechaga (Uruguay) by the Libyan Arab Jamahiriya.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (case referred to a Chamber). Mr. N. Valticos (Greece) was chosen by El Salvador and Mr. M. Virally (France) was chosen by Honduras. Following the death of Mr. Virally, Mr. S. Torres Bernárdez (Spain) was chosen by Honduras.

Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway). Mr. P. H. Fischer was chosen by Denmark.

Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America). Mr. M. Aghahosseini was chosen by the Islamic Republic of Iran[2]

Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal). Mr. H. Thierry (France) was chosen by Guinea-Bissau. Following the expiry of Judge Mbaye's term of office on 5 February 1991 Senegal no longer had a judge of its nationality on the bench. It therefore chose Mr. K. Mbaye to sit as judge *ad hoc*.

Territorial Dispute (Libyan Arab Jamahiriya/Chad). Mr. J. Sette-Camara (Brazil) was chosen by the Libyan Arab Jamahiriya and Mr. G. M. Abi-Saab (Egypt) by Chad.

East Timor (Portugal v. Australia). Mr. A. de Arruda Ferrer-Correia was chosen by Portugal. Following his resignation, on 14 July 1994, Mr. K. J. Skubiszewski (Poland) was chosen by Portugal. Sir Ninian Stephen was chosen by Australia.

Passage through the Great Belt (Finland v. Denmark). Mr. B. Broms was chosen by Finland and Mr. P. H. Fischer by Denmark.

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[2] Case removed from the List before the Court held hearings on the preliminary objections raised by the United States.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain). Mr. J. M. Ruda (Argentina) was chosen by Qatar. Following the death of Mr. Ruda, Mr. S. Torres Bernárdez (Spain) was chosen by Qatar. Mr. N. Valticos (Greece) was chosen by Bahrain. He resigned for health reasons as from the end of the jurisdiction and admissibility phase of the case. Bahrain subsequently chose Mr. M. Shahabuddeen (Guyana). After the resignation of Mr. Shahabuddeen, Bahrain chose Mr. Yves L. Fortier (Canada) to sit as judge *ad hoc*.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom). Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya. Judge Higgins having excused herself, the United Kingdom chose Sir Robert Jennings to sit as judge *ad hoc*.

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America). Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya.

Oil Platforms (Islamic Republic of Iran v. United States of America). Mr. F. Rigaux (Belgium) was chosen by the Islamic Republic of Iran.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia). Mr. E. Lauterpacht (United Kingdom) was chosen by Bosnia and Herzegovina and Mr. M. Kreća by Yugoslavia.

Gabčíkovo-Nagymaros Project (Hungary/Slovakia). Mr. K. J. Skubiszewski (Poland) was chosen by Slovakia.

Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria). Mr. K. Mbaye (Senegal) was chosen by Cameroon and Prince B. A. Ajibola by Nigeria.

Fisheries Jurisdiction (Spain v. Canada). Mr. S. Torres Bernárdez was chosen by Spain and Mr. M. Lalonde by Canada.

Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand *v.* France) *Case*. Sir Geoffrey Palmer was chosen by New Zealand.

Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon *v.* Nigeria), Preliminary Objections *(Nigeria v. Cameroon)*. Prince B. A. Ajibola was chosen by Nigeria and Mr. K. Mbaye (Senegal) by Cameroon.

Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) (Yugoslavia v.

Spain); (*Yugoslavia* v. *United Kingdom*); (*Yugoslavia* v. *United States of America*). In all ten cases Yugoslavia chose Mr. M. Kreća; in the case of (*Yugoslavia* v. *Belgium*), Mr. P. Duinslaeger was chosen by Belgium; in the case of (*Yugoslavia* v. *Canada*), Mr. M. Lalonde was chosen by Canada; in the case of (*Yugoslavia* v. *Italy*), Mr. G. Gaja was chosen by Italy and in the case of (*Yugoslavia* v. *Spain*), Mr. S. Torres Bernárdez was chosen by Spain.

III. CHAMBERS

1. Chamber of Summary Procedure

The Statute (Art. 29) provides that, with a view to the speedy despatch of business, the Court shall form annually a Chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. The Court also selects two judges for this Chamber for the purpose of replacing judges who find it impossible to sit. Under Article 15 of the Rules of Court, the President and Vice-President are members of this Chamber ex officio, the other members and the substitutes being elected. The Chamber of Summary Procedure has never as yet been called upon to meet.

The Chamber of Summary Procedure is at present composed as follows: President Schwebel, Vice-President Weeramantry, Judges Herczegh, Shi and Koroma, members; Judges Higgins and Parra-Aranguren, substitute members.

2. Chambers Provided for in Article 26, Paragraph 1, of the Statute

The Statute (Art. 26, para. 1) provides also that the Court may from time to time form one or more chambers, composed of three or more judges, as the Court may determine, for dealing with particular categories of cases; for example, labour cases and cases relating to transit and communications. Cases are heard and determined by these chambers if the parties so request.

In the past the Court has considered the question of the possible formation of a chamber to deal with environmental matters. On those occasions it took the view that it was not yet necessary to set up a standing special chamber, emphasizing that it was able to respond rapidly to requests for the constitution of a so-called "*ad hoc*" chamber (pursuant to Article 26, paragraph 2, of the Statute) which could deal also with any environmental case.

In view of the developments in the field of environmental law and protection which have taken place in the last few years, and considering that it should be prepared to the fullest possible extent to deal with any environmental case falling within its jurisdiction, the Court, in July 1993, deemed it appropriate to establish a seven-member Chamber for Environmental Matters to deal with such cases as parties might refer to it in accordance with Article 26 of the Statute. The Chamber is at present composed as follows: President Schwebel; Vice-President Weeramantry; and Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer and Rezek.

3. *Chambers Formed under Article 26, Paragraph 2, of the Statute*

The Statute (Art. 26, para. 2) provides that the Court may form a chamber for dealing with a particular case, the number of judges constituting such a chamber being determined by the Court with the approval of the parties.

Chambers of this kind have been formed at the joint request of the parties to deal with four cases. They are listed below with an indication of the date on which the respective Chamber was constituted and the names of its members.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America): constituted on 20 January 1982; Judges Ago (*President*), Gros, Mosler, Schwebel; Judge *ad hoc* Cohen.

Frontier Dispute (Burkina Faso/Republic of Mali): constituted on 3 April 1985; Judges Bedjaoui (*President*), Lachs, Ruda; Judges *ad hoc* Luchaire, Abi-Saab.

Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)*: constituted on 2 March 1987 with the following composition — Judges Nagendra Singh (*President*), Oda, Ago, Schwebel, Sir Robert Jennings. Following the death of Judge Nagendra Singh the Court, on 20 December 1988, elected President Ruda to succeed him as member and (ex officio) President of the Chamber.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua [as from 13 September 1990] *intervening)*: constituted on 8 May 1987 with the following composition — Judges Oda, Sette-Camara, Sir Robert Jennings; Judges *ad hoc* Valticos, Virally. The Chamber elected Judge Sette-Camara to be its President. After the death of Judge Virally, Mr. Torres Bernárdez was chosen to sit as judge *ad hoc* in his place, and on 13 December 1989 the Court declared the Chamber to be composed as follows: Judges Sette-Camara (*President*), Oda, Sir Robert Jennings; Judges *ad hoc* Valticos, Torres Bernárdez. On 7 February 1991 Judges Sir Robert Jennings and Oda exchanged places in the order of precedence within the Chamber owing to their election to be, respectively, the Court's President and Vice-President.

4. *Provisions in the Rules relating to Chambers*

Articles 15-18 and 90-93 of the Rules of Court contain the provisions relating to chambers.

IV. ASSESSORS

Article 30, paragraph 2, of the Statute and Article 9 of the Rules of Court provide that the Court may, either *proprio motu* or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it, without the right to vote. The chambers also have the power to appoint assessors.

These provisions have not been applied up to the present.

V. THE REGISTRAR

The Court appoints its Registrar (Statute, Art. 21, para. 2; Rules, Art. 22).

The present Registrar is Mr. Eduardo Valencia-Ospina (see Chap. V, p. 152, below).

VI. PRIVILEGES AND IMMUNITIES

Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (*I.C.J. Acts and Documents No. 5*, pp. 200-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps, who is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (*ibid.*, pp. 210-213).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that ". . . if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there" and that ". . . judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

CHAPTER II

BIOGRAPHIES OF JUDGES

Biographies of judges who held office in the period 1 August 1998 to 31 July 1999 will be found below.

I. MEMBERS OF THE COURT ON 31 JULY 1999

President Stephen M. SCHWEBEL

(Member of the Court since 15 January 1981; re-elected as from 6 February 1988 and from 6 February 1997; member of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*, 1981-1984, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989; Vice-President of the Court from 1994 to 1997, President of the Court since 6 February 1997)

Born in New York City, on 10 March 1929.

Harvard University, B.A. *magna cum laude* with highest honours in government (1950); Cambridge University, studies in international law (1951); LL.B., Yale Law School (1954). Doctor *honoris causa*, Bhopal University, India (1982), Hofstra University, New York (1996). Awarded the Yale Law School Medal of Merit (1997).

Admitted to the Bar of the State of New York (1955); of the Supreme Court of the United States (1965); and of the District of Columbia (1976).

Attorney, White & Case, New York (1954-1959).

Assistant Professor of Law, Harvard University (1959-1961).

Professor of International Law and subsequently Edward B. Burling Professor of International Law and Organization, the School of Advanced International Studies, The Johns Hopkins University, Washington, D.C. (1967-1981). Visiting lecturer or professor at Cambridge University (1957, 1983); the Australian National University (1969); the Hague Academy of International Law (1972); the Graduate Institute of International Studies, Geneva (1980); and at other universities in the United States and elsewhere.

Assistant Legal Adviser, Department of State (1961-1966); Special Assistant to the Assistant Secretary of State for International Organization Affairs (1966-1967); Consultant to the Department of State (1967-1973). Counselor on International Law, Department of State (1973-1974); Deputy Legal Adviser, Department of State (1974-1981).

Legal Adviser to the United States delegation, and Alternate Representative in the Sixth Committee, during sessions of the United Nations General Assembly (1961-1965). United States representative and chairman of the United States delegation to various committees of the United Nations, including the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (1964); the Special Committee on the Question of Defining Aggression (1971); and the UNCTAD Working Group on a Charter of Economic Rights and Duties of States (1973-1974).

Member of the International Law Commission of the United Nations (1977-1981). Chairman of the Drafting Committee (1978); Special Rapporteur on the Law of the Non-Navigational Uses of International Watercourses (1977-1981).

Participated as Associate Representative, Representative, Counsel or Deputy Agent of the United States in various cases before the International Court of Justice (between 1962 and 1980).

Arbitrator or president in international commercial arbitration (since 1982). Member of the Arbitral Tribunal in the *Eritrea-Yemen Arbitration* (since 1996).

Executive Vice-President and Executive Director of the American Society of International Law (1967-1973). Honorary Vice-President (since 1983). Honorary President (since 1996). President of the Administrative Tribunal of the International Monetary Fund (since January 1994).

Member of the Board of Editors, *American Journal of International Law* (1967-1981); Honorary Editor (since 1996). Chairman of the Editorial Advisory Committee, *International Legal Materials* (1967-1973).

Member of the Institute of International Law; the American Society of International Law; the American Branch of the International Law Association; the American Bar Association; and the Council on Foreign Relations. Honorary Fellow of the Lauterpacht Research Centre in International Law of Cambridge University. Member of the Board of Electors of the Whewell Professorship of International Law of Cambridge University. Former Member of the Board of Overseers' Committee to Visit the Harvard Law School. Former Chairman of the Supervisory Board of the Telders International Law Moot Court Competition. Honorary Bencher, Gray's Inn, London.

Author of *The Secretary-General of the United Nations: His Political Powers and Practice*, 1952; *The Effectiveness of International Decisions*, 1971 (as editor); "Aggression, Intervention and Self-Defence in Modern International Law", *Recueil des cours*, Hague Academy of International Law, 1972; reports to the International Law Commission on the law of the non-navigational uses of international watercourses; *International Arbitration: Three Salient Problems* (1987); *Justice in International Law* (1994); and some one hundred and twenty-five articles, notes and book reviews in legal and other publications. Research and drafting assistant to United Nations Secretary-General Trygve Lie in the writing of *In the Cause of Peace*, 1954.

Vice-President Christopher Gregory WEERAMANTRY

(Member of the Court since 6 February 1991; Vice-President of the Court since 6 February 1997)

Born in Colombo, Sri Lanka, on 17 November 1926.

B.A., LL.B., LL.D. (University of London); LL.D. (*honoris causa*) (University of Colombo).

Advocate, Supreme Court of Sri Lanka (1948-1965); Lecturer and Examiner, Council of Legal Education, Sri Lanka (1951-1956); Commissioner of Assize, Supreme Court of Sri Lanka (1965-1967); Justice of the Supreme Court of Sri Lanka (1967-1972); Member, Council of Legal Education, Sri Lanka (1967-1972); Honorary Visiting Professor, University of Colombo (since 1984); Honorary Life Member, Bar Association of Sri Lanka.

Sir Hayden Starke Professor of Law, Monash University, Melbourne, Australia (1972-1991); Emeritus Professor of Law, Monash University (since 1991); Chairman, Commission of Inquiry into International Responsibility for Phosphate Mining on Nauru (1987-1988).

Panellist, Unesco Seminar on Teaching of Human Rights, Canberra (1980); Member, United Nations University Task Force on Human Rights (1982); Vice-Chairman, United Nations Centre against *Apartheid*/Government of Nigeria Conference on Legal Status of *Apartheid* Regime, Lagos (1984); Panellist, SCOPE-ENUWAR-UNU (Scientific Committee on Problems of the Environment-Environmental Consequences of Nuclear War-United Nations University), International Conference on Nuclear Hunger, Tokyo (1985); Lecturer, United Nations Human Rights Commission Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Palais des Nations, Geneva (1988); Editor, United Nations University/United Nations Human Rights Commission's two-volume study on Science, Technology and Human Rights (1988-1990); Co-ordinator, United Nations University/Netherlands Institute of Human Rights Workshop on Science, Technology and Human Rights, Utrecht (1989).

Visiting Professorships and Academic Appointments: University of Tokyo (1978); University of Stellenbosch (1979); University of Papua New Guinea (1981); University of Florida (1984); Lafayette College, Pennsylvania (1985); University of Hong Kong (1989).

Member, Editorial Board: *Sri Lankan Journal of International Law*; *Human Rights Quarterly*, Johns Hopkins University; *Interdisciplinary Peace Research*, La Trobe University; *Journal of Ceylon Law*; Advisory Board, *China Law Reports*; *Georgetown International Environmental Law Review*; Editorial Advisory Board, *Asia Pacific Journal of Environmental Law*; Board of Recommendation, *Yearbook of International Humanitarian Law*; Editorial Board of Advisers, *Pacifica Review*.

Associate Member, Institute of International Law; Associate Academician, International Academy of Comparative Law, Paris; Vice-President, International Commission of Jurists, Victoria; Past President, World Federation of Overseas Sri Lankan Organizations; Vice-Patron, United Nations Association of Sri Lanka. Member, Club of Rome (Australia); Commonwealth Lawyers Association; Society of Public Teachers of Law; World Association of Law Professors; Lawasia; World Association on the Philosophy of Law and Legal Philosophy.

Books: *The Law of Contracts, being a Comparative Study of the Roman-Dutch, English and Customary Laws of Contract in Ceylon* (2 vols.), 1965; *The Law in Crisis: Bridges of Understanding*, 1975; *Equality and Freedom: Some Third World Perspectives*, 1976; *Human Rights in Japan*, 1979; *Apartheid: 'The Closing Phases?'*, 1980; *An Invitation to the Law*, 1980; *The Slumbering Sentinels: Law and Human Rights in the Wake of Technology*, 1983; *Law: The Threatened Peripheries*, 1984; *Nuclear Weapons and Scientific Responsibility*, 1987 (translated into Japanese); *Islamic Jurisprudence: Some International Perspectives*, 1988; *Human Rights and Scientific and Technological Development*, ed., 1990; *Nauru: Environmental Damage under International Trusteeship*, 1992; *The Impact of Technology on Human Rights: Global Case-Studies*, ed., 1993; *Justice without Frontiers*, Vol. I, *Furthering Human Rights*, 1997; Vol. II, *Protecting Human Rights in the Age of Technology*, 1998; *The Lord's Prayer: Bridge to a Better World*, 1998.

Reports: *Report of the Nauru Commission of Inquiry* (10 vols.), 1988 (joint author).

Articles in law journals in Asia, Africa, Australasia, Europe and North America.

Published lectures include: "Fundamental Perspectives on Equality and Freedom", World Congress on Equality and Freedom, St. Louis, Missouri (1976), an official event marking the American Bicentennial; "National and Transnational Systems as Denigrators of Human Rights", Unesco Seminar on Teaching of Human Rights, Canberra (1981); "The Right to Development", Lawasia Seminar on Establishment of a Regional Human Rights Framework for the Pacific, Suva (1985); "Cultural and Ideological Pluralism in Contemporary Public International Law", World Congress of International Academy of Comparative Law, Sydney and Melbourne (1986); "Traffic in Armaments: A Blind Spot in Human Rights and International Law", Joint Soviet-US International Conference on Nuclear Weapons and International Law, New York (1987); "Emerging Dimensions of Sovereignty in International Law", International Seminar on the Coming Global Civilization, Moscow (1988); "The Teaching of Human Rights", United Nations Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Geneva (1988); "The Law, Nuclear Weapons and the Real World", First World Convention of Lawyers against Nuclear Arms, The Hague (1989); "International Arbitration under the UNCITRAL Rules", Regional Seminar on International Arbitration, Kuala Lumpur (1989); "Judicial Reasoning under the Common Law", Commonwealth Law Conference, Auckland (1990); "The Importance of Philosophical Perspectives to the Judicial Process", 6 *Connecticut Journal of International Law* (1991); "Does

International Law Matter?", *Inaugural Tun Hussein Onn Memorial Lecture*, Kuala Lumpur (1991); "The Right to Know: Freedom of Information as a Human Right", Commonwealth Law Conference, Cyprus (1993); "Introducing Human Rights to the Younger Generation", Unesco, Netherlands (1993); "The Constancy of the Judicial Obligation", Inaugural Fernando Memorial Lecture, Colombo (1994); "The World Court: Its Conception, Constitution and Contribution", *Inaugural Governor's Forum*, Melbourne, Victoria, Australia (1994); 1995 Martin Luther King Lecture, "On Earth as It Is in Heaven: A Vision of World Order for the 21st Century", *Tulsa Journal of Comparative and International Law*, 1995; Inaugural Nagendra Singh Memorial Lecture, "The International Court of Justice in the Age of Multiculturalism", 36 *Indian Journal of International Law* (1996); "Some Practical Problems of International Adjudication", 17 *Australian Year Book of International Law* (1996); "The Function of the International Court of Justice in the Development of International Law", 10 *Leiden Journal of International Law* (1997); "Private International Law and Public International Law", 12 *Rivista di diritto internazionale privato e processuale*, No. 2 (1998); "Some Buddhist Perspectives on International Law", in *Festschrift in Honour of Boutros Boutros-Ghali*, 1998; "Human Rights and the Global Marketplace", XXV *Brooklyn Journal of International Law*, No. 1 (1999); "Inaugural Grotius Lecture", 14 *American University International Law Review*, No. 6 (1999).

Order of *Deshamanya* (Sri Lanka); Mohamed Sahabdeen Award for International Understanding in the SAARC Region, 1993.

Judge Shigeru ODA

(Member of the Court since 6 February 1976, re-elected as from 6 February 1985 and from 6 February 1994; member of the Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, 1986-1992, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989; Vice-President of the Court from 1991 to 1994; Acting President in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*.)

Born on 22 October 1924.

Law degree, University of Tokyo (1947); Doctor of Law (JSD), Yale University (1953); Doctor of Law, University of Tohoku (1962). Presently Professor Emeritus of the Tohoku University (since 1985) and Member of the Japan Academy (since 1994). Awarded the Yale Law

School Medal of Merit (1997). Doctor *honoris causa* of the Bhopal University, India (1980), and of the New York Law School (1981).

Research Fellow in international law, University of Tokyo (1947-1949). Lecturer (1950-1953), Associate Professor (1953-1959) and Professor (1959-1976) at Tohoku University. Technical Adviser to the Atomic Energy Commission (1961-1964) and to the Council for Marine Science and Technology in the Prime Minister's Office (1968-1971). Special Assistant to the Minister for Foreign Affairs (1973-1976). Member of the Science Council of the Ministry of Education (1969-1976), of the Council for Ocean Development in the Prime Minister's Office (1971-1976), and of the Advisory Committee for Co-operation with the United Nations University (1971-1976).

Delegate to the United Nations Conferences on the Law of the Sea (1958, 1960 and 1973-1975); member of the United Nations Group of Experts on Marine Science and Technology (1967-1968). Alternate Representative of Japan on the United Nations Committee on the Peaceful Uses of the Sea-bed and Ocean Floor (1968-1973); Legal Consultant to the ESCAP Committee for Co-ordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (1969, 1972 and 1975). Member of the panel of the International Atomic Energy Agency on the Legal Implications of the Disposal of Radio-active Waste into the Sea (1961-1963) and of the Agency's group of experts for the Study of the Character and Purpose of Appropriate Observation of Peaceful Nuclear Explosions (1970). Representative of Japan at the sixth General Conference of the Inter-Governmental Oceanographic Commission (1969); Chairman of the Working Group on Legal Questions related to Scientific Investigations of the Ocean (1968-1975). Alternate Member of the Asian-African Legal Consultative Committee (1971-1975).

Counsel for the Federal Republic of Germany before the International Court of Justice in the *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* cases (1968).

Member of the Executive Council of the International Law Association of Japan. Associate (1969) and Member (1979) of the Institute of International Law. Honorary life Member of the American Society of International Law (1975). Honorary Member of the Japanese Society of International Law (1975). Honorary Member of the Indian Society of International Law. Member of the Curatorium of the Hague Academy of International Law (since 1987). Member of the Curatorium of the Institute of International Public Law and International Relations (Thessaloniki). Member of the International Council of Arbitration for Sport (since 1994). Member of the Board of the International Development Law Institute (since 1995).

Editor-in-chief of the *Japanese Annual of International Law* (1973-1977). General editor for *Publications on Ocean Development* and *International Law in Japanese Perspective* of Kluwer Law International (Martinus Nijhoff).

Lecturer on the "International Law of the Resources of the Sea" and on "The International Court of Justice Viewed from the Bench (1976-1993)" at the Hague Academy of International Law (*Recueil des cours*, Vol. 127, 1969, and Vol. 244, 1993).

Publications: in English – *International Control of Sea Resources*, reprinted edition with a new introduction, 1989; *The International Law of the Ocean Development* (4 vols.), 1972-1979; *The Law of the Sea in Our Time* (2 vols.), 1977; *International Law of the Resources of the Sea*, reprinted edition with supplement (1979); *The Practice of Japan in International Law 1961-1970* (edited with H. Owada), 1982; in Japanese – *International Law of the Sea* (1956, revised ed. 1969); *International Law of Marine Resources* (3 vols.), 1971-1975; *Judicial Decisions of the Japanese Courts involving International Law* (edited with T. Sogawa), 1978, revised and updated edition, 1991; *The Law of the Sea*, Vol. I, 1979; *The Law of the Sea 25 Years of Recollections*, 1981; *Treaties and Conventions* (edited with Y. Ishimoto), 1983, sixth revised ed., 1996; *Commentary on the United Nations Convention on the Law of the Sea*, Vol. I, 1985; *The International Court of Justice*, 1987; *A Collection of Essays on the Law of the Sea*, 1989; and various articles on international law in English and in Japanese.

Judge Mohammed BEDJAOUI

(Member of the Court since 19 March 1982; re-elected as from 6 February 1988 and from 6 February 1997. President of the Chamber formed to deal with the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, 1983-1987; President of the Court from 1994 to 1997)

Born in Sidi-Bel-Abbes, Algeria, on 21 September 1929.

Doctor of Law, Law Faculty of the University of Grenoble, France (1955). Doctor *honoris causa* of the Universities of Hyderabad, Aix-en-Provence, Brussels and Kuwait. Diploma of the Institute of Political Studies, University of Grenoble (1952).

"Avocat stagiaire" at the Court of Appeal of Grenoble (1951-1953). Research Assistant at the Centre national de la recherche scientifique (CNRS), France (1956-1958).

Legal Adviser to the Provisional Government of the Republic of Algeria (1958-1961). Expert adviser to the Algerian delegation at the independence negotiations at Evian and Lugrin (1961).

Executive Secretary to the President of the National Constituent Assembly at Algiers (1962). Secretary-General of the Government (1962-1964).

Dean of the Faculty of Law and Economics of the University of Algiers (1964-1965).

Minister of Justice and Keeper of the Seals (1964-1970).

Algerian Ambassador to France (1970-1979). Permanent delegate of Algeria to Unesco (1971-1979). Ambassador and Permanent Representative of Algeria to the United Nations in New York (1979-1982).

Co-President of the United Nations Commission of Enquiry to Iran (February-March 1980). Vice-President of the United Nations Council for Namibia (1979-1982). Chairman of the Group of 77 (1981-1982). Chairman of the Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries (1981-1982). Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea and Guinea-Bissau (1983-1985). Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea-Bissau and Senegal (1985-1989). Arbitrator or President in several international commercial arbitrations.

Participated in various sessions of the United Nations General Assembly as member, deputy-head or head of the Algerian delegation. Head of the Algerian delegations to the United Nations Conferences on Succession of States in Respect of Treaties (1977) and the Law of the Sea (1976-1980).

Took part in various sessions of the OAU Council of Ministers and OAU Summit Meetings, and in various ministerial meetings or conferences of heads of State and government of the non-aligned countries, as member, deputy-head or head of the Algerian delegation. United Nations Consultant Expert at the Vienna Conference on Succession of States in respect of State Property, Archives and Debts (1983).

Member of the International Law Commission (1965-1982).

Member of the Institute of International Law (since 1977); First Vice-President of the Institute (Strasbourg 1997-Berlin 1999). Member of the French Society for International Law. Member of the Scientific Council of the Institut du droit économique de la mer of the Principality of Monaco. Member of the Governing Board of the Foundation for International Studies of the University of Malta, Valletta. Member of the Independent Commission on International Humanitarian Issues (co-chaired by Prince Hassan bin Talal of Jordan and Prince Sadruddin Agha Khan) (1982-1987). Member of several award panels for international prizes, including that of the Albert Schweitzer Prize (United States of America). Member of the Jury for the Félix Houphouët-Boigny Peace Prize (Unesco). Member of the Unesco *Ad Hoc* Forum for Reflection (1992). Member of the Unesco International Consultative Committee on Bioethics. Member of the International Committee of Advisers of the Chinese International Law Institute, Beijing. Member of the International Council for Global Health Progress (since 1994). Member of the Independent World Commission on the Oceans (President: Mr. Mario Soares) (1995-1998).

Recipient of various prizes and honours.

Holder of decorations of several States.

Author of eight books and over 200 articles.

Judge Gilbert GUILLAUME

(Member of the Court since 14 September 1987; re-elected
as from 6 February 1991)

Born in Bois-Colombes, France, on 4 December 1930.

Licence (Bachelor's degree) in law, University of Paris. Diplôme from the Paris Institute of Political Studies; Diplôme d'études supérieures d'économie politique et de science économique (Diploma of Advanced Studies in Political Economy and Economic Science), University of Paris.

Alumnus of the Ecole nationale d'administration.

Member of the Council of State, as Auditeur (1957), then Maître des Requêtes (1963), and most recently Councillor of State (1981-1996).

Legal Adviser to the State Secretariat for Civil Aviation (1968-1979); French Representative on the Legal Committee of the International Civil Aviation Organization (ICAO) (1968-1979) and Chairman of the Committee (1971-1975); delegate to the diplomatic conferences on the suppression of the unlawful seizure of aircraft (The Hague, 1970), the suppression of unlawful acts against the safety of civil aircraft (Montreal, 1971) and air safety (Rome, 1973); President of the Diplomatic Conference on the Liability of the Carrier (Montreal, 1975); Head of the French delegations to the diplomatic conferences on the liability of the carrier vis-à-vis third parties (Montreal, 1978) and the non-use of force against civil aircraft (Montreal, 1984).

Chairman of the Conciliation Commission, Organisation for Economic Co-operation and Development (1973-1978); Member of the European Space Agency Appeals Board (1975-1978); Director of Legal Affairs, Organisation for Economic Co-operation and Development (1979).

Director of Legal Affairs, Ministry of Foreign Affairs (1979-1987).

Counsel for France in the arbitration proceedings between France and the United States over the Franco-American air agreement (1978); Agent for France in the arbitration proceedings between France and Canada over the Franco-Canadian fisheries agreement (1986); Agent for France in numerous cases before the Court of Justice of the European Communities and the European Commission and Court of Human Rights. French Representative on the Central Commission for the Navigation of the Rhine (1979-1987); Chairman of the Commission (1981-1982); French Representative on the Asian-African Legal Consultative Committee (1980-1987).

French delegate to the General Assembly of the United Nations (Sixth Committee) (1982-1987); Head of the French delegation to the Third United Nations Conference on the Law of the Sea (1982), the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Vienna, 1983) and the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 1986).

Member of the Permanent Court of Arbitration (since 1980)

Member of the Court of Arbitration of the Organization for Security and Co-operation in Europe (OSCE). Designated arbitrator by the International Telecommunications Satellite Organization (INTELSAT), the International Chamber of Commerce and the International Centre for the Settlement of Investment Disputes (ICSID).

President of the French branch of the International Law Association (ILA). Member of the Institute of International Law. Vice-President of the French Society for International Law. Honorary Chairman of the French Society for Air and Space Law. Member of the International Institute of Law of the French-speaking Countries (IDEF). Member of the Académie de marine. Member of the Académie de l'air et de l'espace. Member of the International Academy of Comparative Law. Member of the Scientific Board of the *Revue générale de droit international public* and of the Board of Directors of the *Annuaire français de droit international*. Chairman of the Board of Directors of the *Revue française de droit aérien et spatial*.

Author of numerous works and articles. Has given a course on "Terrorism and International Law" at the Hague Academy of International Law ("Terrorisme et droit international", *Recueil des cours*, Vol. 215, 1989). Author of a work on *Les grandes crises internationales et le droit* (1994).

Judge Raymond RANJEVA

(Member of the Court since 6 February 1991)

Born in Antananarivo, Madagascar, on 31 August 1942.

Bachelor's degree in law (1965), University of Madagascar, Antananarivo. *Diplôme* from the Madagascar National School of Administration (1966). Trainee in the Judicial Division of the Conseil d'Etat, Paris (1965-1966). *Diplôme* d'études supérieures de sciences politiques, University of Paris, Faculty of Law and Economic Science (1966). *Diplôme* d'études supérieures de droit public, University of Madagascar (1967). Doctorate of Law, University of Paris II (thesis: "La succession d'organisations internationales en Afrique"). *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972).

Doctor *honoris causa* of the Universities of Limoges and Strasbourg. Laureate of the University of Madagascar, of the National Association of Doctors of Law and of the Madagascar National School of Administration.

Civil Administrator (1966). Assistant (1966-1972), Lecturer (1972) and Professor (1981-1991) at the University of Madagascar. Professor at the Madagascar Military Academy and at the Madagascar National School of Administration. Director of the Public Law and Political Science Study Centre. Dean of the Faculty of Law, Economics, Management and Social Sciences (1982-1986); reappointed in 1986. First Rector of the University of Antananarivo (1988-1990). Associate or visiting lecturer at several universities abroad: University of Aix-Marseille III, Bordeaux I, Paris I (Panthéon-Sorbonne), Paris II (Panthéon-Assas), the Institute of Advanced International Studies, La Réunion and Burundi, and the Free University of Brussels. Director of the French-speaking research seminar at the Hague Academy of International Law (1987); gave a course at the Hague Academy of International Law in 1997. Member (Ouagadougou, 1988) and President (Cotonou, 1992) of the Board of *Agrégation* Examiners of the African and Malagasy Council on Higher Education.

Conciliator at the World Bank International Centre for Settlement of Investment Disputes since 1970. Member of Malagasy delegations to several international conferences: Third United Nations Conference on the Law of the Sea; Preparatory Commission for the International Sea-bed Authority and the Law of the Sea Tribunal; United Nations General Assembly (1979-1990); Non-Aligned Countries (1979); Conference of States which use French (1987); Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties, Vienna (1976-1977); Member of the Malagasy delegation responsible for negotiating the revision of the co-operation agreements with France (1973); First Vice-President for Africa of the International Conference of French-Speaking Faculties of Law and Political Science (1987-1991).

Counsel to the Republic of Mali in the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*. Consultant for Madagascar on the amicable settlement of the transfer to the State of the activities of Eau-Electricité de Madagascar and Electricité de France (1975) and in the case of SEDITEX INTERNATIONAL GmbH Hamburg/Republic of Madagascar.

Co-opted Member and Arbitrator of the Court of Arbitration for Sport.

Member and Vice-President of the Malagasy Academy of Sciences, Literature and Arts (1974); President of the ethics and political science section (1976-1991). Managing Director of JURECO, legal, economic and financial databank – research and advisory bodies (1986-1990). Editor of the periodical *Lettre mensuelle de Jureco* (1986-1988).

Member of the Board of the French Society of International Law. Member of the Quebec Society of International Law. Member of the Governing Body of the African Society of International and Comparative Law. Member of the Scientific Council of the Agence universitaire de la Francophonie (AUPELF-UREF). Associate Member of the Institute of International Law.

Member of the National Constitutional Committee (1975). Founding Member of the Malagasy Human Rights Committee (1971). Legal adviser to the Catholic Bishops Conference, Madagascar. Secretary-General of the Malagasy Legal Studies Society.

Commandeur of the National Order of Madagascar. Chevalier of the Madagascar Order of Merit. Officer of the National Order of Mali. Sea Honours.

Author of numerous books, essays, articles and of addresses at several conferences.

Judge Géza HERCZEGH

(Member of the Court since 10 May 1993; re-elected as from 6 February 1994)

Born in Nagykapos, on 17 October 1928.

Educated at French Grammar School in Gödöllő, Hungary.

Bachelor's degree in law, University of Szeged (1951); Candidate in Jurisprudence (Ph.D.) (1965); Doctor *honoris causa* at the Law Faculty of the University of Marburg, Germany (1990); Corresponding Member (1985), and Member of the Hungarian Academy of Sciences (1990); Vice-President of the Department of Legal and Economic Sciences of the Hungarian Academy of Sciences (1990-1993).

Research Fellow in public international law at the Institute of Political Sciences, Budapest (1951-1967); studies as Senior Fellow at various institutes, for example in Paris (1966), Salzburg (1970); Professor of Law, Head of the International Law Department of the Law Faculty of the University of Pécs (1967-1990); Dean of the Law Faculty of the University of Pécs (1981-1987); lectured in international humanitarian law at several universities (e.g., Bayreuth, Bratislava, Cambridge, Cracow, Exeter, Graz, Marburg, Moscow, Osijek, Novi Sad, Vienna) (1970-1985); lecturer in seminars for the implementation and dissemination of international humanitarian law, Warsaw (1985), Vegimont (1989).

Judge and Vice-President of the Constitutional Court of the Republic of Hungary (1990-1993).

Represented the Hungarian Red Cross Society as expert on international humanitarian law at the conferences of The Hague (1971), Vienna (1972), Tehran (1973), Monaco (1984); governmental expert on international humanitarian law at the conferences of Geneva (1971 and 1972); member of the Hungarian delegation at the Diplomatic Conference of Geneva on the protection of victims of armed conflicts (1974-1977); served as Vice-President of the Third Commission of the same Conference; member of the Hungarian delegation at the Unesco Conference in Sophia (1985); Rapporteur at the Third Conference on Parliamentary Democracy organized by the Council of Europe on the topic "Problems of Transition from an Authoritarian or Totalitarian Régime to a Genuinely Democratic System", Strasbourg (1991); member of the expert working group ("Badinter Group") preparing the draft convention on peaceful settlement of disputes within the framework of the Conference on Security and Co-operation in Europe, Paris (1992).

Author of the following works: *The Colonial Question and International Law* (in Hungarian), 1962; *General Principles of Law and the International Legal Order*, Series in Foreign Languages, 1969; *Development of International Humanitarian Law*, 1984; *Foreign Policy of Hungary, 896-1919* (in Hungarian), 1987; and of numerous articles in international law and relations, especially in international humanitarian law.

Judge SHI Jiuyong

(Member of the Court since 6 February 1994)

Born in Zhejiang, China, on 9 October 1926.

B.A. in Government and Public Law, St. John's University, Shanghai (1948); M.A. in International Law, Columbia University, New York, United States of America (1951); research in international law at Columbia University, New York (1951-1954).

Assistant Research Fellow in International Law, Institute of International Relations, Beijing, China (1956-1958). Senior Lecturer, Associate Professor of International Law, Foreign Affairs College, Beijing (1958-1964). Research Fellow in International Law, Institute of International Law, Beijing (1964-1973). Research Fellow in International Law, Institute of International Studies, Beijing (1973-1980). Professor of International Law, Foreign Affairs College, Beijing (1984-1993). Professor of Law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China, Beijing (1987-1988).

Adviser, Chinese Society of International Law, Beijing. Council member, Institute of Hong Kong Law of the Chinese Law Society, Beijing. Member, American Society of International Law.

Legal Adviser, Ministry of Foreign Affairs, People's Republic of China (1980-1993). Legal Adviser, Office of the Chinese Senior Representative, Sino-British Joint Liaison Group (on the question of Hong Kong) (1985-1993). Legal Adviser, Chinese Centre of Legal Consultancy, Beijing (1989-1993). Member, Standing Committee, Beijing Committee (1988-1993), and member, Eighth National Committee (1993), Chinese People's Political Consultative Conference.

Legal Adviser, Chinese delegation to the 1980 Annual Meeting of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development. Legal Adviser, delegation of the Ministry of Finance of the People's Republic of China for the formal visit to the International Bank for Reconstruction and Development (1980). Adviser, Chinese delegation to the thirty-fifth session of the General Assembly of the United Nations and China's Alternate Representative to the Sixth Committee at that session. Adviser, Chinese delegation to the thirty-sixth, thirty-seventh and thirty-eighth sessions of the United Nations General Assembly and China's delegate to the Sixth Committee at the same sessions (1981-1983). Delegate, Chinese delegation to the sessions of the Asian-African Legal Consultative Committee in 1981, 1985 and 1993. Legal Adviser, Chinese delegation to the talks between the Government of China and the Asian Development Bank on the question of China's membership in the Bank (1986). Legal Adviser of the Chinese side, Working Group of the Sino-British Negotiations on the question of Hong Kong (1984). Legal Adviser of the Chinese side, Sino-British Joint Liaison Group (on Hong

Kong), plenary sessions (1985-1993). Delegate, Chinese delegation, legal consultations between the Ministry of Foreign Affairs of the People's Republic of China and the Department of State of the United States of America (1983 and 1984). Delegate, Chinese delegation, negotiations between the Government of the People's Republic of China and the Government of the United States of America on Mutual Promotion and Protection of Investment Agreement (1983 and 1984). Representative of the International Law Commission to the forty-fifth session of the United Nations General Assembly (1990). Expert from China, Senior Legal Experts Meetings on Review of Montevideo Programme, United Nations Environment Programme, 5-6 July 1991 at Geneva and 5-7 September 1991 at Nairobi. Representative of the International Law Commission to the thirtieth meeting of the Asian-African Legal Consultative Conference, Cairo, 22-27 April 1991. Legal Adviser to the Chinese delegation, Disarmament Conference, November 1991 to August 1992.

Member (1987-1993), Rapporteur (1988) and Chairman (1990) of the International Law Commission.

Member, Foreign Economic and Trade Arbitration Commission, China Council for the Promotion of International Trade (1984-1988). Member of the Steering Committee on revision of the Hague Convention of 1907 on Pacific Settlement of International Disputes of the Permanent Court of Arbitration (1994-1997).

Taught general course of international law, Foreign Affairs College, Beijing (1958-1963). Taught general course of international economic law, Department of Law, Peking University (1980-1985). Taught general course of international economic law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China (1988).

Lectures on international financial institutions, National Bureau of Oceanography, the People's Republic of China (1986). Lectures on principles of international law relating to the new international economic order, Department of Law, Peking University (1988). Lectures on protection of private foreign investment (in English), the Hague Academy of International Law, Regional Programme, Beijing (1987). Lecture on the Sino-British Joint Declaration on the question of Hong Kong (in English), Graduate Institute of International Studies, Geneva (1988). Lecture on autonomy in international law and the case of the future Hong Kong Special Administrative Region (in English), International Law Seminar, United Nations Office at Geneva (1988). Lecture on "Nationality of Hong Kong Residents: Present and Future", Graduate Studies, Foreign Affairs College (1988). Lecture on certain issues relating to the legal status of the future Hong Kong Special Administrative Region, Graduate Studies, Department of Law, Peking University (1989). Lectures on international trade regulation, Foreign Service Training Programme of the Ministry of Foreign Affairs of the People's Republic of China (1985 and 1986). Lectures on problems of international economic law, Department of Law, Chinese People's University, Beijing (1987). Chairman, panel discussions on the new international economic order, Beijing Conference on the Law of the World, World Peace through Law (1990). Participant, Symposium on the International Law of Arms Control and Disarmament, held at Geneva (February 1991). Lectures on the International Law Commission, Graduate Studies, Department of Law, Peking University (March 1991). Lectures on selected topics of international economic law, Graduate Studies, Foreign Affairs College (September-October 1991). Participant in the Seminar on the Draft Code of Crimes and International Criminal Jurisdiction, sponsored by the Foundation for the Establishment of an International Criminal Court and International Criminal Law Commission, Talloires, France (May 1991). Lectures on bilateral investment protection agreements (in English), International Law Seminar, United Nations Office at Geneva (June 1992). Participant, Symposium on Teaching, Dissemination and Research of International Law in Developing Countries, Beijing, 1992.

Author of numerous publications on international law.

Judge Carl-August FLEISCHHAUER

(Member of the Court since 6 February 1994)

Born in Düsseldorf, Germany, on 9 December 1930.

Studied at the Universities of Heidelberg, Grenoble and Paris. First State Examination (Law), Heidelberg (1954). Fulbright Scholar, University of Chicago Law School (1954-1955). Junior Barrister Düsseldorf-Heidelberg (1955-1959). Dr. jur., Heidelberg. Second State Examination (Law), Stuttgart (1960). Hague Academy of International Law (1960).

Research Fellow at the Max-Planck Institute for Comparative Public Law and International Law, Heidelberg (1960-1962).

Entered the foreign service of the Federal Republic of Germany in 1962. Foreign assignments to Tehran (1962-1963) and Montevideo (1969-1971). Official (1964-1969), Deputy Head (1971) and Head (1972), International Law Section, Legal Department, Federal Foreign Office. Principal Legal Adviser to the Federal Foreign Office and Director-General of the Legal Department (1976-1983).

Member of the Committee of Experts on Human Rights, Council of Europe, Strasbourg (1964-1967). Member of the delegation of the Federal Republic of Germany to the United Nations Conference on the Law of Treaties, Vienna (1968-1969). Observed Sixth Committee during parts of the twenty-third and twenty-fourth sessions of the General Assembly for the then Observer Mission of the Federal Republic of Germany (1968 and 1969). Member of the delegation of the Federal Republic of Germany to the United Nations General Assembly (twenty-eighth to thirty-third sessions as Adviser and Special Adviser, thirty-fourth to thirty-seventh sessions as

Alternate Representative) (1973-1982). Alternate Representative and Representative of the Federal Republic of Germany in the Sixth Committee. Representative of the Federal Republic of Germany (1978-1979), on the *Ad Hoc* Committee of the Sixth Committee on the elaboration of the International Convention against the Taking of Hostages. Member of the delegation of the Federal Republic of Germany to the CSCE (Geneva Phase, Helsinki Final Phase) (1974-1975). Member (Vice-Chairman) of the delegation of the Federal Republic of Germany to the Diplomatic Conference on Humanitarian Law applicable in Armed Conflicts, Geneva (1974-1977). Head of the delegation of the Federal Republic of Germany to the United Nations Conference on State Succession in relation to Treaties, Vienna (1977-1978). Member (from 1977 Vice-Chairman) of the delegation of the Federal Republic of Germany to the Third United Nations Conference on the Law of the Sea (1974-1982). Has participated in numerous bilateral meetings and negotiations.

Under-Secretary-General for Legal Affairs, the Legal Counsel of the United Nations (1983-1994).

Was actively engaged, on the side of the Federal Republic of Germany, in the following cases before the Court: *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* (1967-1969) and *Fisheries Jurisdiction (Federal Republic of Germany v. Iceland)* (1972-1974). Was actively engaged, on the side of the United Nations, in the advisory cases on the: *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal* (1984-1987); *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947* (1988); and *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations* (1989).

Honorary member of the Indian Society of International Law (since 1985). Member of the German Society of International Law and, since 1977, of the Council of the Society. Member of the American Society of International Law. Member of the Curatorium of the Max-Planck Institute for International and Foreign Public Law, Heidelberg (since 1975). Member of the Heidelberg Society for International and Foreign Public Law. Member of the Société française pour le droit international.

Awarded the German Cross of Merit, First Class, and several foreign decorations (all before 1983).

Author of numerous publications on international law.

Judge Abdul G. Koroma

(Member of the Court since 6 February 1994)

Born in Freetown, Sierra Leone, on 29 September 1943.

LL.M. (Honours), University of Kiev; Master of Philosophy (International Law), King's College, University of London; LL.D., University of Sierra Leone. Barrister-at-Law, and Honorary Bencher, Honourable Society of Lincoln's Inn, London.

Joined the Government service of Sierra Leone in 1964 and the Ministry of Foreign Affairs in 1969. As a Barrister and Legal Practitioner of the High Court of Sierra Leone, was appointed State Counsel and Special Adviser to the Attorney-General and Minister of Justice. Served as Legal Adviser to the Permanent Mission of Sierra Leone to the United Nations. Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the United Nations, New York, while concurrently accredited as High Commissioner of Sierra Leone to Jamaica and Trinidad and Tobago, and Ambassador to the Republic of Korea (Seoul) and Cuba (1981-1985). Served as Ambassador Extraordinary and Plenipotentiary to Belgium, France, Luxembourg and the Netherlands while concurrently accredited to the European Communities and to the United Nations Educational, Scientific and Cultural Organization (Unesco) (1985-1988). Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the Organization of African Unity (OAU) with concurrent accreditation to Ethiopia, Kenya, the United Republic of Tanzania and Zambia (1988-1992).

As delegate to the General Assembly, served on the Sixth Committee (Legal) from 1977 to 1994 and was elected Chairman. Also served as delegate of Sierra Leone to the following United Nations bodies: the Special Committee on the Review of the Charter and on the Strengthening of the Role of the Organization; the United Nations Commission on International Trade Law (UNCITRAL); the United Nations Committee on the Peaceful Uses of Outer Space; the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law; served as Chairman of the United Nations Special Committee on the granting of independence to colonial countries and peoples (Committee of 24); headed various United Nations missions on the observance of the exercise of the right of self-determination in various non-self-governing territories.

Represented Sierra Leone at many plenipotentiary conferences, including the United Nations Conference on the Succession of States in respect of Property, Debts and Archives, and was a signatory of the Convention; the Third United Nations Conference on the Law of the Sea (UNCLOS III) and Chairman of the African Group at the Conference. In that capacity, was closely associated with the elaboration of some of the key provisions of the resulting Convention. Was a signatory of the Convention.

Ambassador Extraordinary and Plenipotentiary, Permanent Representative of the Republic of Sierra Leone to the United Nations, New York.

Played an active role in and contributed to the elaboration of various contemporary legal instruments. Member of the International Law Commission (January 1982-1994), and Chairman of the Commission during its forty-third session (1991). Former Chairman of the Committee mandated to elaborate a Draft Statute for an International Criminal Court. As a member of the International Law Commission, was an active participant and contributor to the codification and progressive development of such important international legal instruments as the Draft Code of Crimes against Peace and Security of Mankind; Relations between States and International Organizations; the Jurisdictional Immunities of States and their Property; the Law of State Responsibility; the proposed Statute of an International Criminal Court; and the Law of the Non-Navigational Uses of International Watercourses; the draft articles on most-favoured-nation clauses; the articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, and of the optional protocols thereto.

Contributions to other major areas of international law, including the law of self-determination, human rights law, international humanitarian law, and the peaceful settlement of disputes; has written and lectured on these subjects. Has delivered lectures on all of these topics in many countries, including Cameroon, Canada, China, Ethiopia, Germany, Greece, India, Japan, Malta, Norway, Sweden, the United Republic of Tanzania and the United States of America. Served as expert consultant to the International Committee of the Red Cross (ICRC) at Geneva on the implementation of and respect for international humanitarian law.

Participated in conferences, symposiums and seminars on international law, including those held by the International Ocean Institute (Malta and Halifax, Nova Scotia); the International Law Institute (Hawaii); the International Criminal Jurisdiction (Talloires); the International Institute of Higher Studies in Criminal Sciences; Centre for International Studies, New York University School of Law; the Asian-African Legal Consultative Committee. Also served as external examiner in international law for Ph.D. candidates at the University of Dalhousie, Halifax, Nova Scotia, Canada.

Member of the American Society of International Law; member Planning Council of the International Ocean Institute (Halifax and Malta); member and Vice-President of the African Association of International and Comparative Law; Vice-President of the African Society of International and Comparative Law; President, Henri Dunant Centre for Humanitarian Dialogue (Geneva).

The Order of Commander of Rokel was awarded by the Government of Sierra Leone for outstanding professional service (1991).

Author of a thesis on the *Settlement of Territorial and Boundary Disputes in Africa* (University of London). Among articles published are the following: "The Peaceful Settlement of International Disputes", *Netherlands International Review*, Vol. XLIII, 1996/7; "50th Anniversary of the Universal Declaration of Human Rights: Human Rights and International Humanitarian Law", *International Review of the Red Cross*, 1998; "The Influence of the Universal Declaration of Human Rights in Africa — Fifty Years after Its Adoption — A Legal Perspective", *Africa Legal Aid Quarterly*, 1998; "Humanitarian Intervention and Contemporary International Law", *Swiss Review of International and European Law*, No. 4 (1995); "International Justice in Relation to the International Court of Justice", *Thesaurus Acroasium*, Vol. XXVI, Thessaloniki; "Implementation of the Law of the Sea Convention through Its Institutions: An Overview in Order for the Oceans at the Turn of the 21st Century".

Judge Vladlen Stepanovich VERESHCHETIN

(Member of the Court since 26 January 1995; re-elected as from 6 February 1997)

Born in Briansk, Russian Federation, on 8 January 1932.

Graduated (with honours) from the International Law Faculty of the Moscow Institute of International Relations (1954). Post-graduate studies in international law at the same Institute (1955-1958). Candidate of Juridical Sciences (1959). Doctor of Juridical Sciences (1976). Professor of International Law (1982). Maitre emerite des Sciences of the Russian Federation (1995) – title bestowed by the President of the Russian Federation.

Staff member of the Presidium of the USSR Academy of Sciences (1958-1967). First Vice-Chairman and Legal Counsel, Intercosmos, USSR Academy of Sciences (1967-1981). Deputy Director and Head of the International Law Department of the Institute of State and Law, Russian Academy of Sciences, Moscow (1981-1995).

Member of the United Nations International Law Commission (1992-1995); Chairman of the Commission (1994). Member of the USSR delegations to the United Nations Committee on the Peaceful Uses of Outer Space and its Legal Sub-committee (1979-1990).

Member of the Permanent Court of Arbitration (1984-1995).

Has given lecture courses and individual lectures on the theory of international law, the peaceful settlement of international disputes, the law of the sea, the law of outer space and the law of international organizations at the Institute of International Relations, the Diplomatic Academy and the University of Friendship of Peoples (Moscow), the Juridical Institute (Ekaterinburg), the Institute of International Public Law and International Relations (Thessaloniki), the European University Institute (Florence), the Universities of Akron and Mississippi (United States) and the Institute of International Private and Public Law (The Hague). Has presented papers on different international law subjects at many international congresses and conferences.

Vice-President of the Russian (formerly Soviet) Association of International Law (1985-1997). Chairman of the Scientific Council on International and Comparative Law at the Institute of State and Law, Russian Academy of Sciences (1981-1995). Vice-President of the Russian (formerly Soviet) United Nations Association (1984-1997). Vice-President (1978-1995), Honorary Director of the International Institute of Space Law. Member of the Policy and Finance Committee of the International Law Association (since 1990). Member, Board of Directors of the International Institute of Air and Space Law, Leiden University (since 1995). Member (since 1977), Trustee (1985-1996) of the International Academy of Astronautics.

Member of the advisory boards of the *Russian Law Journal* and the *Journal of Space Law* (United States).

Orders and awards: "Badge of Honour" (1967), "Friendship of Peoples" (1975), "October Revolution" (1981). Honorary Awards of the German Academy of Sciences at Berlin (1978), the Bulgarian Academy of Sciences (1979), the International Academy of Astronautics (1987, 1994), the International Institute of Space Law (1995), the Russian Association of International Law (1995).

Author of more than 150 works and articles on international law published in Russia and abroad, including seven-volume *Course of International Law*, Moscow, 1989-1993 (Deputy Editor-in-Chief of the course and co-author).

Judge Rosalyn HIGGINS

(Member of the Court since 12 July 1995)

Born in London on 2 June 1937.

Dame Commander of the British Empire (1995).

B.A. (Cantab) 1st Class (1959); LL.B. (Cantab) 1st Class (1962); J.S.D. (Yale) (1962); M.A. (Cantab) (1962); Honorary Doctorates of the Universities of Paris XI (1980), Dundee (1992), Durham and the London School of Economics (1995), Cambridge, Kent, Essex, Sussex, Greenwich and London City University (1996), Birmingham, Leicester, Glasgow (1997), and Nottingham (1999). Awarded the Yale Law School Medal of Merit (1997) and the Manley O. Hudson Medal (1998).

Minor Scholar, Girton College, Cambridge (1957); Major Scholar, Girton College, Cambridge (1958); Campbell Scholarship for Professional Studies (1957); Montefiore Award for academic and general distinction (1958); Bryce-Tebbs Scholar, Cambridge (1958); Commonwealth Fund (Harkness) Fellowship (1959-1961); Graduate Fellow, Yale Law School (1959-1961).

United Kingdom Interne, Office of Legal Affairs, United Nations (1958); Visiting Fellow, Brookings Institution, Washington, DC (1960); Junior Fellow in international studies, London School of Economics (1961-1963); Staff specialist in international law, Royal Institute of International Affairs (1963-1974); Visiting Fellow, London School of Economics (1974-1978); Professor of International Law, University of Kent at Canterbury (1978-1981); Professor of International Law, University of London (1981-1995).

Queen's Counsel (1986); Bencher of the Inner Temple (1989).

Queen's Counsel and Bencher of the Inner Temple, practising in public international law and petroleum law. Practice in the English courts and before various international tribunals, including the International Court of Justice, the European Court of Human Rights and the Court of the European Communities.

Counsel for the International Tin Council in a series of cases in the United Kingdom.

Counsel in the following cases in the International Court of Justice: *Territorial Dispute (Libyan Arab Jamahiriya/Chad)*; *East Timor (Portugal v. Australia)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*; *Gabčikovo-Nagymaros Project (Hungary/Slovakia)*.

President, Tribunal of the International Centre for Settlement of Investment Disputes (*Amco v. Indonesia*).

Member of the Committee on Human Rights under the International Covenant on Civil and Political Rights (1984-1995); Special Rapporteur for new cases (1989-1991).

Associé of the Institut de droit international (1987), Member (1991); Chairman, Public International Law Advisory Board, British Institute for International and Comparative Law (since 1992); Hon. Vice-President of the American Society of International Law (1993).

Rockefeller Foundation Fellowship (1961); British Academy Award (1977-1978). Volumes I and II of *United Nations Peacekeeping* received the 1971 Certificate of Merit of the American Society of International Law; *Problems and Process* received the 1995 Certificate of Merit of the American Society of International Law, Wolfgang Friedman Medal for services to International Law, Columbia University (1985), Harold Weil Medal, New York University (1995); Ordre des Palmes Academiques (1988); Honorary Life Membership Award, American Society of International Law (1992).

Member of the Board of Editors of the *American Journal of International Law* (1975-1985), the *British Year Book of International Law* and of the *Journal of Energy and Natural Resources Law*.

Delivered general course on international law at the Hague Academy of International Law (1991).

Author of *The Development of International Law through the Political Organs of the United Nations*, 1963; *Conflict of Interests: International Law in a Divided World*, 1965; *The Administration of the United Kingdom Foreign Policy through the United Nations*, 1966; *UN Peacekeeping: Documents and Commentary*, Vol. I, *Middle East*, 1969, Vol. II, *Asia*, 1970, Vol. III, *Africa*, 1980, Vol. IV, *Europe*, 1981; *Law in Movement — Essays in Memory of John McMahon* (joint editor with James Fawcett), 1974; "The Taking of Property by the State: Recent Developments in

International Law", *Recueil des cours*, Hague Academy of International Law, Vol. 176, 1982; *Liberté de circulation des personnes en droit international* (joint editor with Maurice Flory), 1988; "International Law and the Avoidance, Containment and Resolution of Disputes (General Course on Public International Law)", *Recueil des cours*, Vol. 230, 1991; *Problems and Process: International Law and How We Use It*, 1994, and of various works and articles on international legal theory, United Nations law, the use of force, State and diplomatic immunities, human rights and international petroleum law.

Judge Gonzalo PARRA-ARANGUREN

(Member of the Court since 28 February 1996)

Born in Caracas, Venezuela, on 5 December 1928.

Degree in juridical and political sciences (*summa cum laude*) at the Central University of Venezuela (1950); postgraduate course in comparative law and jurisprudence (LL.M.) at the Inter-American Law Institute, New York University (1951-1952); Doctor of Law ("*doktor iuris*") (*cum laude*) at the Ludwig-Maximileans University, Munich (1955).

Professor at the Central University of Venezuela, Caracas, teaching private international law (1956-1996); has taught that same course at Andrés Bello Catholic University in Caracas (1957-1996).

Judge in the Second Course of First Instance (commercial matters), Federal District and State of Miranda, Caracas (1958-1971); first associate judge (1988-1992) in the Chamber of Cassation (civil, commercial and labour matters) of the Supreme Court of Justice; alternate judge of the same Chamber (1992-1996). Has acted as arbitrator, both in Venezuela and abroad, in the latter case regarding international commercial matters of a private nature; on several occasions has testified in foreign courts as an expert on Venezuelan law.

Member of the commission of enquiry appointed in 1985 by the Governing Body of the International Labour Office to consider the implementation by the Federal Republic of Germany of the ILO Discrimination (Employment and Occupation) Convention (1958, No. 111); the report was submitted in 1986, but he did not endorse its recommendations.

Member of the Permanent Court of Arbitration (since 1985).

Member of the legislative committees that drafted the section on Venezuelan nationality in connection with the Constitution that was approved in 1961; the draft law on private international law (1963) and its subsequent revision in 1965 that was essentially reproduced in the Venezuelan Private International Law Act (1998); and the revised draft sections of the Code of Commerce dealing with credit instruments and bankruptcy respectively (1963-1965).

Member of the legal advisory committee of the Ministry of Foreign Affairs (1984-1996) and of the legal advisory council of the National Congress (1990-1996).

Member of the Institut de droit international (elected in 1979).

Member of the Academy of Political and Social Sciences of Caracas (since 1966) and its President (1993-1995). Corresponding Member of the Uruguayan International Law Association (1978); Corresponding Member of the Argentine International Law Association (1981); Corresponding Member of the National Academy of Law and Social Sciences of Córdoba, Argentine Republic (1982); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation of Granada, Spain (1994); Corresponding Member of the Mexican Academy of Jurisprudence and Legislation corresponding to that of Spain (1994); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation, Madrid (1994); Member of the "Deutsche Gesellschaft für Völkerrecht" (1998).

Member of the Governing Council of the International Institute for the Unification of Private Law (UNIDROIT) (1982-1993); elected again in 1996 for one year. Honorary Member of the same Council since 1993.

Former Member of the editorial board of the *Revista del Colegio de Abogados del Distrito Federal*, Caracas; the editorial board of the *Revista de la Facultad de Derecho de la Universidad Catolica Andres Bello*, Caracas (from its establishment until 1996). Correspondent for the *Netherlands International Law Review* (since 1987).

Taught the General Course on Private International Law at the Hague Academy of International Law (1988), and has given lectures in various countries: in Curaçao, at the commemoration of the centenary of the Introduction of the Civil Code and the Installation of the High Court of Justice (1969); at the course on international law (Rio de Janeiro, 1978, 1979, 1982, 1988, 1992 and 1997), organized by the Inter-American Juridical Committee and the Brazilian Foundation "Getulio Vargas"; at the Hague Academy of International Law, on "Recent Developments of Conflict of Laws Conventions in Latin America" (1979); at the "Journeys of International Law" (Salamanca, November 1992); at the seminar on "Principles for the International Commercial Contracts", prepared by the International Institute for the Unification of Private Law (UNIDROIT) (Rome, December 1993); at the working meeting on the "Reviews and Books for the Unification of the Latin-American Juridical System" (Rome, December 1993); at the Eighth World Conference of the International Society of Family Law (Cardiff, June 1994); at the Congress on Children on the Move, organized by the Dutch committee of the International Year of the Family in collaboration with the Hague Conference on Private International Law (The Hague, October 1994); at the seminar on "Adoption, an Act of Love", organized by the Colombian Institute for Family Welfare (Bogota, June 1995); at the Symposium "Il nuovo Diritto Internazionale Privato Italiano", University of Padua (1996); at the Symposium "Globalization of Child Law. The Role of the Hague Convention" (The Hague, September 1997); and at the "Civil Law Congress", organized by the Bar Association of Puerto Rico (1998).

Co-Chairman of the Committee on Private International Law, during the Sixteenth Session of the Inter-American Lawyers Federation (Caracas, 1969). Reporter at the "First Latin-American Journeys of International Law", at the Andrés Bello Catholic University (Caracas, 1979); at the Twelfth Congress of the Hispano-Luso Institute of International Law (Merida, Venezuela, 1980); at the International Seminar on Adoption (Caracas, 1996); and at the Inter-American Congress "Towards a New Regulation of the International Contracts" (Valencia, Venezuela, 1996).

Representative for Venezuela at the International Association of Legal Science and the German Society for Comparative Law (Treveris, Federal Republic of Germany, 1961); and at the third meeting of the Joint Venezuelan-Spanish Commission (Madrid, 1974).

Representative for Venezuela at the first Inter-American Specialized Conference on Private International Law (CIDIP-I, Panama, 1975), being Vice-Chairman of the Second Committee; at the second such Conference (CIDIP-II, Montevideo, 1979), being Chairman of the Second Committee; at the third and fourth such Conferences (held, respectively, CIDIP-III in La Paz, Bolivia, 1984, and CIDIP-IV in Montevideo, 1989), being Chairman of the Second Committee; and at the fifth such Conference (CIDIP-V, Mexico City, 1994), being Chairman of the First Committee.

Member of the Committees of Experts that met in Washington, D.C., in 1980 in preparation for the Third Inter-American Specialized Conference on Private International Law (CIDIP-III); in Tucson, Arizona, 1993, in preparation for the Fifth Inter-American Specialized Conference on Private International Law (CIDIP-V); and in Washington, D.C. (1995, 1996) to prepare the Inter-American Convention against Corruption.

Representative of Venezuela at the Hague Conference on Private International Law: thirteenth session (1976-1977); fourteenth session (1980); fifteenth session (1984); special session (1985); sixteenth session (1988); and the seventeenth session (1993); Member of the special working group and Special Commission (April and October 1994, respectively) to study the application of the Convention of 1993 to minors who are refugees, and of the Special Commission (second meeting, June 1995) on the Protection of Minors and Incompetent Adults and of the Special Commission on maintenance obligations (November 1995). Elected one of the five Vice-Chairmen at the fifteenth and sixteenth sessions.

Rapporteur of the Special Commission of the seventeenth session of the Hague Conference on Private International Law and, in pursuance of these functions, prepared the preliminary report (1992) and the explanatory report on the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption on 29 May 1993.

Author of the following books: *Die Regel "Locus Regit Actum" und die Formen der Testamente*, 1955; *La Nacionalidad Venezolana Originaria*, Vols. I and II, 1964; *La Constitución de 1830 y los Venezolanos por Naturalización*, 1969; *Codificación del Derecho Internacional Privado en América*, Vol. I, 1982, Vol. II, 1998; *La Nacionalidad Venezolana: I. Antecedentes Históricos*, 1983; *La Influencia del Matrimonio sobre la Nacionalidad de la Mujer en la Legislación Venezolana*, 1983; *La Nacionalidad Venezolana: II. Problemas Actuales*, 1983; *Monografías Selectas de Derecho Internacional Privado*, 1984; *Ensayos de Derecho Procesal Civil Internacional*, 1986; *Curso General de Derecho Internacional Privado (Problemas Selectos)*, 1991; *Curso General de Derecho Internacional Privado. Problemas Selectos y Otros Estudios*, 1992; *Curso General de Derecho Internacional Privado. Problemas selectos y Otros Estudios*, Tercera Edición Revisada, 1998; *Estudios de Derecho Procesal Civil Internacional*, 1998; *Escritos Diversos de Derecho Internacional Privado*, 1998; *Estudios de Derecho Mercantil Internacional*, 1998.

Has published numerous articles on the law of nationality, private international law and international civil procedural law in Venezuelan and foreign journals.

Judge Pieter Hendrik KOOIJMANS

(Member of the Court since 6 February 1997)

Born at Heemstede, Netherlands, on 6 July 1933.

Econ. B. (1955), LL.M. (with honours) (1957), Dr. Iuris, Free University, Amsterdam (with honours) (1964).

Professor of Public International Law and European Law, Free University, Amsterdam (1965-1973). Professor of Public International Law, University of Leiden (1977-1992, 1995-1997).

State Secretary for Foreign Affairs of the Netherlands (1973-1977). Minister for Foreign Affairs of the Netherlands (1993-1994).

Member of the Netherlands delegation to the General Assembly of the United Nations (1967, Sixth Committee), Vice-Chairman (1973-1977), Chairman (1993). Head of the Netherlands delegation to various sessions of the Third United Nations Conference on the Law of the Sea (1974-1977), to the First Review Conference of the Non-Proliferation Treaty (1975), to the Geneva Diplomatic Conference on humanitarian law in armed conflict (1975) and to the United Nations Conference on *Apartheid* (1977). Head of the Netherlands delegation to the United Nations Commission on Human Rights (1982-1985, 1992).

Chairman of the United Nations Commission on Human Rights (1984-1985). Special Rapporteur of the United Nations Commission on Human Rights on Questions relevant to Torture (1985-1992).

Member of various United Nations and Conference on Security and Co-operation in Europe (CSCE) missions to the former Yugoslavia (1991-1992).

Member of the Permanent Court of Arbitration. Member and former Chairman of the Netherlands Branch of the International Law Association. Associate Member of the Institut de droit international. Chairman of the Supervisory Board of the Netherlands Research Center for African Studies. Vice-President of the European Cultural Foundation.

Member of the Board of Editors of the *Netherlands International Law Review*.

Former positions: Chairman of the Board of the Carnegie Foundation. Chairman of the Administrative Council of the Hague Academy of International Law. Chairman of the Board of the Netherlands Disaster Relief Agency. Chairman of the Supervisory Board of the Netherlands Refugee Foundation. Chairman of the Netherlands Foundation (established by all political parties) for support to the democratic institutions of the new South Africa. Vice-Chairman of the Dutch Evangelical Party (merged in 1980 with two other parties into the Christian Democratic Party). Chairman of the Foreign Affairs Committee of the Christian Democratic Party. Member of the Steering Committee of the International Crisis Group. Member of the Advisory Committee on Questions of International Law (Dutch Ministry of Foreign Affairs). Member of the Advisory Council on Questions of Peace and Security (Dutch Ministries of Foreign Affairs and Defence). Chairman of the Board of the Institute of Social Studies (postgraduate school on questions of development). Chairman of the Board of the Netherlands Institute of Peace-related Issues. Vice-Chairman of the Advisory Commission on Questions of Aliens (quasi-judicial body, Dutch Ministry of Justice). Chairman of the Advisory Committee on Questions of Disarmament (Dutch Ministry of Foreign Affairs). Member of the Advisory Defence Council (Dutch Ministry of Defence). Member of various advisory commissions on the Codification of the Law of Aliens and of Refugees (Dutch Ministry of Justice).

Lecturer at the Hague Academy of International Law (1976 and 1991).

Author of numerous publications on international law.

Judge Francisco REZEK

(Member of the Court since 6 February 1997)

Born 18 January 1944 in Cristina, Minas Gerais (Brazil).

LL.B (1966), D.E.S. (1967): Federal University of Minas Gerais (Belo Horizonte, MG). Docteur de l'Université de Paris-Sorbonne (1970). Diploma in Law, University of Oxford (1979).

Extension courses and research programmes: Harvard University (1965); the Hague Academy of International Law (1968, 1970).

Professor of International Law and Constitutional Law at the University of Brasilia (1971-1997). Chairman of the Department of Law (1974-1976). Dean of the Faculty of Social Studies (1978-1979). Professor of International Law at Rio Branco Institute (the official diplomatic school of Brazil) (1976-1997). Lecturer at the Hague Academy of International Law (1986) and at the Institute of International Public Law and International Relations, Thessaloniki (1989).

President of conferences, lecturer and examiner in contests for professorship in the major Brazilian universities (since 1971).

Attorney of the Republic before the Supreme Court of Brazil (1972-1979). Deputy Attorney-General of the Republic (1979-1983). Justice of the Supreme Court of Brazil, appointed by the President with approval of the Senate, March 1983, at the age of 39. Resigned in March 1990. Appointed again in April 1992 for life, retired in 1997.

Foreign Minister of Brazil (from March 1990 to April 1992).

Member of the Permanent Court of Arbitration (since 1987).

Published works: *The Law of Treaties* (in Portuguese), 1984; *Public International Law* (in Portuguese), 1st ed., 1989, 7th ed., 1997; *Droit des traités: particularités des actes constitutifs d'organisations internationales*, 1968; *La conduite des relations internationales dans le droit constitutionnel latino-américain*, 1970; "Aspectos elementares do Estatuto da Igualdade", in *Boletim do Ministério da Justiça*, No. 277, 1978; "Reciprocity as a Basis of Extradition", in *British Year Book of International Law*, Vol. 52, 1981; "Protection of the Victims of Armed Conflicts: Wounded, Sick and Shipwrecked", in *International Dimensions of Humanitarian Law*, Unesco, Institut Henry Dunant, 1988 (preceded by a French edition, 1986); "Le droit international de la nationalité", Hague Academy of International Law, *Recueil des cours*, Vol. 198, 1986; "Sur le fondement du droit des gens", in *Essays in Honour of Krzysztof Skubiszewski*, 1996; "A New International Order", in *Review of International Affairs*, 1990; "Una política comercial para los nuevos tiempos", in *Revista Latinoamericana de Integración*, 1991; "Imunidade do Estado estrangeiro à jurisdição local", in *Hector Gros Espiell liber amicorum*, 1997.

About 45 monographs and other legal studies published in specialized periodicals in Brazil. More than 300 advisory opinions pronounced on behalf of the Public Ministry in cases put before the Supreme Court of Brazil and published in its quarterly Report (1972-1983). More than 500 decisions or dissenting opinions pronounced in the Supreme Court of Brazil and published in its quarterly Report and in other periodicals (1983-1995).

II. JUDGES *AD HOC*

Article 7, paragraph 3, of the Rules of Court provides that judges *ad hoc* are to take precedence after the Members of the Court and in order of seniority of age.

Judge *ad hoc* Sir Robert Yewdall JENNINGS

(Judge *ad hoc* in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*.)

Born on 19 October 1913.

Studied at Cambridge University, obtaining the degrees of M.A. and

LL.B. and subsequently at Harvard University (Choate Fellow, 1936-1937). Honorary Doctor of Law, Universities of Hull (1987), Saarland (1988), Rome (1990), Cambridge (1993), Leicester and Oxford (1996).

Assistant Lecturer in Law, London School of Economics (1938-1939) and Honorary Fellow (1994). Lecturer (1946-1955) and subsequently Whewell Professor of International Law in the University of Cambridge (1955-1982). Reader in International Law to the Inns of Court Council of Legal Education (1959-1970).

Fellow (since 1939), Senior Tutor (1949-1955) and sometime President of Jesus College, Cambridge.

Called to the Bar of Lincoln's Inn (1943); Honorary Bencher of Lincoln's Inn (since 1970); Queen's Counsel (since 1969).

Counsel in the *Rio Encuentro, Beagle Channel*, Franco-British *Continental Shelf Delimitation* and Dubai-Sharjah *Frontier Delimitation* arbitrations; appeared as Counsel before the Court in the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case.

Sometime legal consultant to a number of Governments (Argentina, Bangladesh, Brunei, Canada, Sudan, Venezuela, Sharjah, etc.).

Judge *ad hoc*, European Court of Human Rights, in *X v. United Kingdom* (1982).

Member of the Permanent Court of Arbitration (since 1982).

President of the PCA Arbital Tribunal in the *Eritrea-Yemen Arbitration* (since 1996).

Member (1982-1995) and President (1991-1994) of the International Court of Justice; member of its Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (1986-1992) and its Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)* (1987-1989).

Public International Law Editor of the *International and Comparative Law Quarterly* (1957-1959). Editor of the *British Year Book of International Law* (1959), first with Sir Humphrey Waldlock and then as senior editor from 1974 to 1982.

Associate (1957), Member (1967), Vice-President (1979), President (1981) and Honorary Member (1985) of the Institute of International Law.

Honorary Life Member of the American Society of International Law and of the Indian Society of International Law.

Received the Manley Hudson Medal of the American Society of International Law.

Gave the general course on principles of international law at the Hague Academy of International Law (1967).

Author of *Acquisition of Territory in International Law* (1963); *Oppenheim's International Law* (9th ed.), Vol. I, with Sir Arthur Watts; *Collected Writings of Sir Robert Jennings*, 2 vols., 1998; and various articles, mainly in the *British Year Book of International Law*.

Judge *ad hoc* Kéba Mbaye

(Judge *ad hoc* in the case concerning the
Land and Maritime Boundary between Cameroon and Nigeria
(Cameroon v. Nigeria) and in the case concerning the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v.
Nigeria), Preliminary Objections *(Nigeria v. Cameroon)*)

Holder of the diploma of advanced studies in private law (Paris); holder of the certificate of the Ecole nationale de la France d'outre-mer (Magistrature Department).

Honorary First President of the Supreme Court.

Former President of the Constitutional Council of Senegal.

Former lecturer at the Faculty of Law of the University of Dakar and at the Ecole nationale d'administration of Senegal (1967-1978).

Doctor *honoris causa* of the Universities of Lille II, Savoie and Nice (France), Bhopal (India) and Emory (United States of America).

Member of the International Court of Justice (6 February 1982 to 5 February 1991); Vice-President of the Court (1987 to 1991); formerly judge *ad hoc* in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau v. Senegal)*.

Has been a member of various United Nations bodies and has in particular participated as member and chairman in the work of the Commission on Human Rights, the Commission responsible for seeking the settlement of any dispute between States Parties to the Convention against Discrimination in Education, the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, and of the *Ad Hoc* Working Group of Experts to investigate violations of human rights in southern Africa; former member of the ILO Committee of Experts.

Vice-Chairman of the Executive Committee of the International Institute of Human Rights (René Cassin Foundation); Honorary Member of the International Institute of Humanitarian Law; former Chairman of the International Commission of Jurists; Honorary President of the World Federation of United Nations Associations; former President of the International Academy of Human Rights; Member of the Société française pour le droit international; Vice-President of the Institut international de droit d'expression française.

General Rapporteur at the Organization of African Unity Conference which adopted the African Charter on Human and Peoples' Rights.

Honorary Member of the Belgian Académie royale des sciences d'outre-mer; Member of the International Academy of Comparative Law, of the International Law Association, and of the Académie française des sciences d'outre-mer; Vice-President of the Curatorium of the Hague Academy of International Law; Honorary Member of the Institute of

International Law; former Vice-Chairman of the ICC International Court of Arbitration; President of the Court of Arbitration for Sport and of the International Council of Arbitration for Sport.

Author of numerous publications concerning the law of Senegal, the law of sub-Saharan Africa, human rights in general, and in particular the right to development, the law of sport. Gave a lecture on "'Interest to Act' before the International Court of Justice" at the Hague Academy of International Law (1988).

Judge *ad hoc* François Ernest Robert RIGAUX

(Judge *ad hoc* in the case concerning *Oil Platforms (Islamic Republic of Iran v. United States of America)*)

Born in Ixelles, Belgium, on 26 March 1926.

Bachelier of Philosophy (1945); Doctor of Law (1947); Licencié in Criminal Science (1948); Agrégé in Law (1956); Doctor *honoris causa* of the University of Dijon (1981).

Senior Lecturer (1955), Assistant Professor (1959) and Professor (1961) in the Faculty of Law of the Université catholique de Louvain. Subjects taught: civil law (persons and property); private international law; protection of the individual and of privacy. Dean of the Faculty of Law (1980-1984), and President of the International Law Department of the Université catholique de Louvain. Professor emeritus at the Université catholique de Louvain (1991) and Visiting Professor, Faculty of Law (1991-1992; 1992-1993). Visiting Professor, Catholic University, Brussels (1993-1994 and 1994-1995) and University Faculties at Saint Louis, Brussels (since 1995).

As well as courses and lectures at various foreign universities, particularly in Florence, Bremen, Barcelona, Caracas, Caceres, Geneva, Hamburg, Madrid, Milan, Munich, Nancy, Regensburg, Rio de Janeiro, Würzburg and Baton Rouge, gave courses as follows: a course at the Hague Academy of International Law on change of connecting factors in private international law (1966), published in the collection *Recueil des cours*; the General Course on Private International Law in 1989 on "Les situations juridiques individuelles dans un système de relativité générale", also published in the *Recueil des cours*; Visiting Professor at the Université Lovanium, Kinshasa (1970); holder of the Francqui Professorship at the Université libre de Bruxelles (1975-1976 academic year), where he taught a course entitled "Droit public et droit privé dans les relations internationales" (published in 1977); course at the Institut des hautes études internationales (Paris, 1978-1979 academic year) on the new international economic order (published in the Institute's "collection des cours et travaux"); Director of Studies of the 1979 summer programme of the Institut universitaire de Luxembourg on the impact of the EEC on the private international law of its member States (work published in 1980). Holder of the Francqui Professorship in the Faculty of Law of the Katholieke Universiteit Leuven (Catholic University of Louvain) (1980-1981 academic year), where he taught a course on "Le pluralisme juridique". Holder of the Francqui Professorship at the Facultés universitaires Notre-Dame de la Paix, Namur (1991-1992 academic year), where he taught a course on "La liberté de la vie privée". Holder of the Francqui Professorship at the University of Ghent (1996-1997) where he taught a course on "Le règlement juridictionnel des conflits de normes". Invited to give lectures at the Tunis Faculty of Law (1988 and 1989), the Florence Faculty of Political Science (1988), the Faculty of Law of the Université d'Aix-Marseille (1991-1992) and the Faculty of Law of Louisiana State University, Baton Rouge (1994-1995).

Served on Ph.D. examining boards at the Universities of Antwerp, Barcelona, Dijon, Ghent, Lyons, Nice, Paris, Reims, Strasbourg and Tunis.

Member of the Bar of Brussels (1947-1954). Deputy Royal Procurator (1954-1963). At present, Honorary Deputy Royal Procurator. Assessor, Legislation Section of the Conseil d'Etat (1966-1991); authorized by Royal Order to bear the honorary title of that function.

Member of the Constitutional Court of the Federation of Bosnia and Herzegovina.

Member of the Institute of International Law (and Third Vice-President from 1983 to 1985). Member of the Institut belge de droit comparé. Former President of the Société belge de droit international. Member of the governing board of the Société des amis d'Henri Rolin. Former President of the scientific council of the *Revue belge de droit international*. Member of the Académie royale de Belgique. Associate Member of the International Academy of Comparative Law.

Winner of the Prix des Anciens Présidents et du *Journal des tribunaux* awarded to a first-year trainee (1947-1948 judicial year). Winner of the Emile van Dievoet Prize (period 1951-1955) for his work entitled: *La théorie des qualifications en droit international privé*. Winner of the "Legatum Visserianum" Prize awarded in January 1962 by the College of Curators of Leiden University for a dissertation on Representation in Comparative Private International Law, submitted on 1 March 1960. Winner of the José A. Negri Prize awarded by the Federal Council of Argentine Notaries for the collective work "Les régimes matrimoniaux et les successions en droit international privé", edited by him in 1965 on the occasion of the Seventh International Congress of Latin Notaries.

Officer of the Order of Leopold (1966), Commander of the Order of the Crown (1977), Grand Officer of the Order of Leopold II (1988).

Principal publications: *La théorie des qualifications en droit international privé*, 1956; *Le statut de la représentation en droit international privé*, [illegible] *droit international privé*, 1968; *Précis de droit des personnes*, Vol. I: *Les relations familiales*, 1971, updated with the collaboration of M.-T. Meulders-Klein, 1978; *Introduction à la science du droit*, 1974; *Droit public et droit privé dans les relations internationales* (publication of the *Revue générale de droit international public*, No. 26), 1977; *Droit international privé*, Vol. I: *Théorie générale*, 1977, revised 2nd ed., 1987; Vol. II: *Droit positif belge*, 1979, revised 2nd ed. with the collaboration of Marc Fallon, 1993; *Pour un autre ordre international*, Droit économique 2, Institut des hautes études internationales de Paris, 1979-1980; *Derecho internacional privado, parte general*, translation and adaptation to Spanish law of Volume I of *Droit international privé*, by Mrs. A. Borrás Rodríguez, 1985; *La Carta di Algeri*, translated by Anna Lo Monaco, 1988; "Les situations juridiques individuelles dans un système de relativité générale (Cours général de droit international privé)", *Recueil des cours*, Hague Academy of International Law, Vol. 213, 1989; *Pour une déclaration universelle des droits des peuples*, 1990; *La protection de la vie privée et des autres biens de la personnalité*, 1990; *La vie privée, une liberté parmi les autres?*, 1992; *La loi des juges*, 1997.

Judge *ad hoc* Krzysztof Skubiszewski

(Judge *ad hoc* in the case concerning *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*)

Born in Poznań, Poland, on 8 October 1926.

Faculty of Law and Economic Sciences, University of Poznań (*magister iuris*) (1945-1949); Doctor *iuris* (1950); European University Centre (Diploma of European Higher Studies), University of Nancy, France (1957); Harvard School of Law (Master of Law) (1957-1958); "Habilitation" in International Law at the Adam Mickiewicz University in Poznań (1960); Doctor *honoris causa* of the Universities of Ghent, Liège, Turin, Mainz and Geneva.

Assistant teacher and lecturer, Faculty of Law, Adam Mickiewicz University in Poznań (1948-1960); Dozent, Faculty of Law, Adam Mickiewicz University in Poznań (1961-1973), Pro-Dean at that Faculty (1961-1963); Visiting Scholar, School of International Affairs, Columbia University, New York (1963-1964); Visiting Professor at the Law Faculty, University of Geneva (1971 and 1979); Visiting Fellow, All Souls College, Oxford (1971-1972); Professor, Institute of Law, Polish Academy of Sciences, Warsaw (1973-1996); Honorary Professor, University of Bucharest.

Lectures at the Universities of Nottingham and London; International Faculty of Comparative Law in Strasbourg; Graduate Institute of International Studies at Geneva, College of Europe at Bruges, Belgium, and also the Clubs of International Law of Harvard, Duke and Oxford Universities; Max-Planck Institute in Heidelberg; Universities of Vienna and Graz; Faculty of Law, University of Paris II; Royal Institute of International Affairs, Chatham House; All Souls College, Oxford; Institut d'Etudes Politiques de Paris; Free University, Berlin; also Hersch Lauterpacht Lectures, Cambridge (1985); Cyril Foster Lecture, Oxford (1990); Lord Wilberforce Lecture (1990); Hugh Gaitskell Lecture (1991); and numerous other lectures in European, American, Australian and Asian Societies of Political and Legal Sciences or International Relations.

Member of "Solidarity" (since 1980). Member of the Primate of Poland Social Council (1981-1984); Member of the Co-ordinating Committee of the Poland-Federal Republic of Germany Forum, representing the secretariat of the Polish Episcopate (1984-1989); Member of the Consultative Council to the Chairman of the Council of State of the Polish People's Republic (1986-1989); Minister for Foreign Affairs (1989-1993).

Member (since 4 December 1993) and President (since 16 February 1994) of the Iran-United States Claims Tribunal.

Judge *ad hoc* in the International Court of Justice in the case concerning *East Timor (Portugal v. Australia)*.

Co-founder and first Chairman of the Council on Foreign Policy (Warsaw, 1996).

Member of the Academies of Sciences of Warsaw and of Cracow; Correspondent, Institut de France; Member of the Society of Arts and Sciences, Poznań; Western Institute, Poznań; International Law Association (Polish branch); Institut de droit international (First Vice-President, 1995-1997); American Society of International Law (Honorary Member, 1991); Société française pour le droit international; Deutsche Gesellschaft für Völkerrecht; Oxford Society; Codrington Club; Honorary Bencher, Gray's Inn. Curator, United Nations Student Association, Poznań (1960-1973).

Gold Cross of Merit (1977); Knight's Cross of the Order of Polonia Restituta (1986); Grand Cross of the same Order (1995); Cavaliere di Gran Croce, Ordine Piano (Holy See, 1991); Grand Officier de la Légion d'honneur (1991); Grosskreuz des Verdienstordens der Bundesrepublik Deutschland (1991); Order of Diplomatic Merit of the Republic of Korea (1991); Cross of Merit of the Republic of Hungary (1994).

Alexander von Humboldt Foundation research prize (1984); Wartburg Prize, Germany (1992); Robert Schuman Prize (1999); German-Polish prize (1999, awarded by virtue of Article 35 of the Treaty of 1991 between the two States).

Author of four books and some 100 articles in law journals or collections of studies, also chapters in collective books and reports, on legal aspects of Polish-German relations, in particular the border between the two countries; use of force by States and law of armed conflicts; law of international organizations; theory of international law, including its sources; rights of individuals.

Judge *ad hoc* Sir Elihu LAUTERPACHT

(Judge *ad hoc* in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*)

Born in London, United Kingdom, on 13 July 1928.

Cambridge University, B.A. (1949); L.L.M. (1950); Whewell Scholar in International Law (1950).

Lecturer (1955) and Reader (1982) in International Law, University of Cambridge.

Director of the Research Centre for International Law (1983-1995) and Honorary Professor of International Law, University of Cambridge.

Fellow of Trinity College, Cambridge (1953).

Barrister (1950); Queen's Counsel (1970); Bencher of Gray's Inn.

Commander of the British Empire (C.B.E.) (1989).

Knight (1998).

Legal Adviser of the Australian Department of Foreign Affairs (1975-1977); deputy leader of the Australian delegation to the United Nations General Assembly (1975-1977); deputy leader of the Australian delegation to the United Nations Law of the Sea Conference (1975-1977).

Counsel or advocate in numerous cases before the International Court of Justice, the European Commission of Human Rights, the Iran-United States Claims Tribunal, various international arbitral tribunals and national courts; counsel and adviser to many Governments and corporations.

Member of the Panel of Arbitrators of the International Centre for the Settlement of Investment Disputes (ICSID) (since 1974); Member of the Panel of Arbitrators of the Dispute Settlement Centre of the International Energy Agency (since 1980).

Chairman of the East African Common Market Tribunal (1972-1975); Member (1979-1998) and President (1996-1998) of the World Bank Administrative Tribunal; Chairman of the Asian Development Bank Administrative Tribunal (1992-1995); Chairman of the Dispute Settlement Panel under Chapter XX of the North American Free Trade Agreement (1996); President of an ICSID (Additional Facility) Arbitration Tribunal established pursuant to Chapter XI of the North American Free Trade Agreement (since 1997); Member of an ICSID Arbitration Tribunal (since 1997); President of an ICSID Arbitration pursuant to a bilateral investment treaty (since 1998); Chairman, Panel No. F3 of the United Nations Compensation Commission (1998-1999).

Member of the Institute of International Law; Honorary Member of the American Society of International Law.

Director, English-speaking Section, Research Centre of the Hague Academy of International Law (1959 and 1960); delivered course of lectures at the Hague Academy of International Law on "The Development of the Law of International Organization by the Decisions of International Tribunals" (1976) and on "Principles of International Litigation" (1986).

Editor of the *International Law Reports* (since 1960) and founder editor of *British Practice in International Law*.

Publications include: *Aspects of the Administration of International Justice* (1991); "The Development of the Law of International Organization by the Decisions of International Tribunals", Hague Academy of International Law, *Recueil des cours* (1976); *Jerusalem and the Holy Places* (1968); and many articles.

Judge *ad hoc* Marc LALONDE

(Judge *ad hoc* in the case concerning *Fisheries Jurisdiction (Spain v. Canada)* and in the case concerning the *Legality of Use of Force (Yugoslavia v. Canada)*.)

Born in Ile Perrot, Quebec, Canada, on 26 July 1929.

B.A., St. Laurent College, Montreal (1950); LL.L., University of Montreal (1954); M.A. (Law), University of Montreal (1955); M.A. (Oxon.) (Economics and Political Science), Oxford University (1957); Diploma of Superior Studies in Law, University of Ottawa (1960); LL.D. *honoris causa*, Tilburg University, Netherlands (1995).

Called to the Bar of Quebec (1955).

Professor of Commercial Law and Economics, University of Montreal (1957-1959); Special Assistant to the Canadian Minister of Justice (1959-1960); Partner, Gelinas, Bourque, Lalonde & Benoit, Montreal (1960-1967); Lecturer in Administrative Law for Doctoral Students, Universities of Ottawa and University of Montreal (1961-1962); Policy Adviser to Lester B. Pearson, Prime Minister of Canada (1967-1968); Principal Secretary to Pierre E. Trudeau, Prime Minister of Canada (1968-1972); Member of Parliament (1972-1984); Minister of Health and Welfare (1972-1977); Minister Responsible for the Status of Women (1974-1979); Minister of State Responsible for Federal-Provincial Relations (1977-1978); Minister of Justice and Attorney General of Canada (1978-1979); Minister of Energy, Mines and Resources (1980-1982); Minister of Finance (1982-1984); Partner, Stikeman Elliott, Montreal, Quebec (since 1984).

Member of the Board of Directors of Citibank Canada, O & Y Properties Corporation and [illegible] Power Inc.

Member of the International Advisory Council to the President of Ukraine ([illegible]); the Advisory Committee on Constitutional Matters in Czechoslovakia (1991-1992); the International Advisory Council of [illegible] ([illegible]).

Chairman of the Council [illegible] Trade (since 1995); Chairman of Hôtel-Dieu Hospital, Montreal, Quebec (1984-1997).

Member of the Quebec Bar, the Law Society of Upper Canada (Ontario Bar), the American Bar Association (associate member), the International Bar Association, the Canadian Bar Association, the Chambre de Commerce de Montréal, the Chambre de Commerce France-Canada; the International Council on Commercial Arbitration, the Corporate Counsel Committee, American Arbitration Association; Chairman of the North American Users Committee of the London Court of International Arbitration; Corresponding Member of the Institute of International Business Law and Practice of the International Chamber of Commerce and of the Canadian Arbitration Committee of the International Chamber of Commerce; Member of the Council of the Royal College of Physicians and Surgeons of Canada (lay member) (1995-1997).

Has written a number of articles and delivered lectures in Canada and abroad on arbitration. Has also been a frequent speaker to national and international conferences on the Canada-United States Free Trade Agreement and the North American Free Trade Agreement.

Queen's Counsel (1971); Member of the Privy Council of Canada (1972); Officer of the Order of Canada (1989).

Judge *ad hoc* Santiago Torres Bernárdez

(Judge *ad hoc* in the cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, *Fisheries Jurisdiction (Spain v. Canada)* and *Legality of Use of Force (Yugoslavia v. Spain)*.)

Born in Vigo, Spain, on 18 November 1929.

Licenciado (1952) and Doctor of Law (1959) of the University of Valladolid, Spain. *Diplôme d'études supérieures européennes* (1955) and Doctor of Law (1957) of the University of Saar, Germany. Doctor *Honoris Causa* of Law (1993) of the University of Alcalá de Henares, Spain.

Member of the Madrid Bar Association. Legal consultant and counsel or advocate in international cases.

Member of the Permanent Court of Arbitration; Member of the Humanitarian Fact-Finding Commission; Member of the Institute of International Law; Member of the International Law Association; Honorary Member of the Spanish Association of International Law Professors; Member of the Société française pour le droit international; Member of the American Society of International Law; Associate Member of the Hispano-Luso-American Institute of International Law; Vice-president of the NGO "Spain with the UNHCR".

Judge *ad hoc* in the International Court of Justice in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (1989-1992).

Former Registrar of the International Court of Justice (1980-1986). Former Member of the Office of Legal Affairs of the Secretariat of the United Nations (1959-1980) being, since 1975, Deputy Director of the Codification Division and Deputy Secretary of the International Law Commission. During that period served continually United Nations legal bodies (Sixth Committee of the General Assembly; International Law Commission; special or *ad hoc* committees), participating also in all the United Nations diplomatic conferences convened between 1960 and 1980 for the purpose of the progressive development of international law and its codification.

Author of various published studies and articles on questions of international law and international organizations and procedures, including: *A propos de l'interprétation et de la revision des arrêts de la Cour internationale de Justice*, 1987; *Resignations at the World Court*, 1988; *La reciprocidad en el sistema de jurisdicción obligatoria establecido en el Artículo 36, párrafo 2, del Estatuto de la Corte Internacional de Justicia*, 1988; "Subsidiary Organs of International Organizations", in *A Handbook on International Organizations*, published by the Hague Academy of International Law, 1988; "Problems and Issues Raised by 'Crimes of States': An Overview", *International Crimes of States. A Critical Analysis of the ILC's Draft Article 19 on State Responsibility*, 1989; "L'arbitrage interétatique. Avec des références particulières à la Convention européenne pour le règlement des différends du 29 avril 1957" in *The Peaceful Settlement of International Disputes in Europe: Future Prospects*, Workshop of the Hague Academy of International Law, 1990; "Observations on 'Non-Appearance' before the International Court of Justice", *Annuaire de l'Institut de droit international*, session de Bâle, Vol. 64-I, 1991; "Succession d'Etats", in Unesco, *Droit international. Bilan et perspectives*, 1991; *Reciprocity in the System of Compulsory Jurisdiction and in Other Modalities of Contentious Jurisdiction Exercised by the International Court of Justice*, 1992; *Perspectivas en la contribución de las Naciones Unidas al mantenimiento de la paz y la seguridad internacionales. Comentarios y observaciones sobre la Declaración de los Miembros del Consejo de Seguridad de 31 de enero de 1992*, 1993; "Spain and the Jurisdiction of the International Court of Justice: From Past to Present", *Archiv des Völkerrechts*, 1994; *The* Uti Possidetis Juris *Principle in Historical Perspective*, 1994; "Some Considerations on the Respective Roles of the Security Council and the International Court of Justice with Respect to 'the Prevention of Aggravation of Disputes' in the Domain of the Pacific Settlement of International Disputes or Situations", in *Proceedings of the Qatar International Law Conference '94* (United Nations Decade of International Law), 1995; "La función de la Corte Internacional de Justicia en el sistema de la Carta de las Naciones Unidas", *Proceedings of the United Nations Congress on Public International Law, New York (March 1995)*, 1996; "L'intervention dans la procédure de la Cour internationale de Justice", Hague Academy of International Law, *Recueil des cours*, Vol. 256 (1995); *La Corte*

Internacional de Justicia en el sistema de la Carta en el cincuenta aniversario de las Naciones Unidas, Universidad Carlos III, Madrid, 1996; "The New Theory of 'Indispensable Parties' under the Statute of the International Court of Justice", *Essays in Honour of Eric Suy*, 1998; "Interpretation of Treaties by the International Court of Justice Following the Adoption of the 1969 Vienna Convention on the Law of Treaties", *Liber Amicorum Professor Seidl-Hohenveldern*, 1998; "La fonction de la Cour internationale de Justice: tendances actuelles du règlement judiciaire", in *Liber Amicorum Mohammed Bedjaoui*, 1999.

Awarded the Spanish Great Cross of Civil Merit (1987) and other foreign decorations (all after 1987).

Judge *ad hoc* Ahmed Sadek EL-KOSHERI

(Judge *ad hoc* in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America)*.)

Born at Cairo, Egypt, on 4 April 1932.

Licencié en Droit, Faculté de Droit (1952), D.E.S. Droit Musulman (1954), D.E.S. Droit Privé (1955), D.E.S. Droit Public (1956), Cairo University. D.E.S. en Sciences Politiques (1957), Diplôme de Droit Comparé (1959), Paris University. D.E.S. en Histoire et Philosophie de Droit (1960), Doctorat d'Etat en Droit (1962), Rennes University.

Faculty Member of the Law School, Ain Shams University, Cairo (1958-1974). Visiting Professor, Beirut Arab University (1963-1964) and Nanterre University (Paris X) (1987-1988). Professor of International Economic Law and President of Senghor University, Alexandria.

Partner of Kosheri, Rashed and Riad law firm, Cairo.

Member of the Egyptian Conseil d'Etat (1952-1958). Legal Adviser of the Ministry of Oil and Finance, Kuwait (1968-1969). Founding General Counsel of the Arab Fund for Economic and Social Development, Kuwait (1973-1974). Secretary-General of the Islamic Development Bank, Jeddah (1978).

Member of the Institut de droit international. Member of the Council for International Commercial Arbitration (ICCA). Vice-President of the Euro-Arab Arbitration System. Member of the Scientific Council of the International Business Law Institute, International Chamber of Commerce, Paris. Vice-President of the ICC Court of Arbitration.

Author of numerous books and articles on general public international law, international commercial law and on international arbitration.

Judge *ad hoc* Prince Bola Adesumbo AJIBOLA

(Judge *ad hoc* in the case concerning the
Land and Maritime Boundary between Cameroon and Nigeria
(Cameroon v. Nigeria) and in the case concerning the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the*
Land and Maritime Boundary between Cameroon and Nigeria
(Cameroon *v.* Nigeria), Preliminary Objections
(Nigeria v. Cameroon))

Born to the Royal Family of Gbdaela II, on 22 March 1934, in Ago-Owu, Abeokuta, Ogun State, Nigeria.

Called to the Bar, Lincoln's Inn, 1962 (Barrister-at-Law); holds Bachelor of Laws Degree of London University; LL.D. *(honoris causa)* of the University of Buckingham (Chancellor the Rt. Hon. Baroness Margaret Thatcher) (1996).

Legal practitioner for 23 years, mostly in Lagos and also in all other parts of Nigeria; Principal Partner of Bola Ajibola and Co., with offices in Lagos, Ikeja, Abeokuta and Kaduna (specialization: commercial law practice with particular bias for international arbitration).

Attorney-General and Minister of Justice of the Federal Republic of Nigeria (1985-1991); President of the Association of Arbitrators of Nigeria; President of the Nigerian Bar Association (1984-1985); conferment of an Award of Senior Advocate of Nigeria (1986); Chairman of the Body of Senior Advocates of Nigeria (1985-1991); Chairman of the Disciplinary Committee of the Bar (1985-1991); Chairman of the General Council of the Bar (1985-1991); Chairman of the Advisory Committee on the Prerogative of Mercy (1985-1991); Member of the Advisory Judicial Committee (1985-1991); Member of the Judicial Service Committee (Abuja) (1987-1991); Vice-Chairman of the Body of Benchers (1989-1990); Chairman of the Body of Benchers (1990-1991); Member of the Nigeria Police Council (1989-1991); Chairman of the Task Force for the Revision of the Laws of the Federation (1990).

Leader of the Nigerian Delegation to the United States of America to Initial an Executive Agreement on Procedure for Mutual Assistance on Law Enforcement Matters (1987) and of the Delegation to conclude a Treaty on Mutual Assistance in Criminal Matters (1989), of the Delegation to the United Kingdom to conclude a Treaty concerning the Investigation and Prosecution of Crime and the Confiscation of the Proceeds of Crime (1989), and of the Delegation to the Islamic Republic of Iran and to Algeria, for bilateral talks on Technical and Legal Co-operation (1991).

Member of the Nigerian Delegation to the United Nations General Assembly and Nigerian representative to the Sixth Committee (1986); temporary President of the United Nations General Assembly at its seventeenth special session on narcotic drugs (1990); Member of the International Law Commission (1986-1991).

Member of the International Court of Justice from 5 December 1991 to 5 February 1994.

Member of the World Bank Administrative Tribunal; Member of the Constitutional Court of the Federation of Bosnia and Herzegovina (since 1995); Member of the United Nations Compensation Commission.

Member of the Permanent Court of Arbitration (The Hague), of its Steering Committee and of the Board of Trustees of its Financial Assistance Fund; Member of the International Chamber of Commerce Court of Arbitration, Paris; Member of the International Maritime Arbitration Commission, Paris; Member of the Board of the London Court of International Arbitration; President of the Pan-African Council of the London Court of International Arbitration. Member of the Court of Arbitration for Sport: CAS *Ad Hoc* Division for the Commonwealth Games in Kuala Lumpur (1998).

Initiated the first ever African Law Ministers Conference, Abuja (1989) (attended by 32 African countries); Chairman of Meeting of ECOWAS Council of Law Ministers, Lagos, Nigeria (1990), where the Treaty Establishing the Court for the Economic Community of West African States was drafted and agreed to by ECOWAS law ministers; leader of the Nigerian Delegation to the Ethiopian All-Party Conference on Peaceful and Democratic Transition (1991); Chairman of the First Meeting of the Working Committee, All-Africa Law Ministers Conference, Cairo (1991); Member of the Nigerian Delegation to the World Peace through Law Conferences in Seoul, South Korea (1987), and Beijing, China (1990); leader of the Nigerian Delegation to the World Conference on the Reform of Criminal Law, Canada (1987), to the Commonwealth Law Conference in Auckland, New Zealand (1990) and the Commonwealth Law Ministers Conference in Christchurch, New Zealand (1990); leader of the Nigerian Delegation to the World Ministerial Drugs Summit on Action to Reduce the Demand for Drugs and to Combat Cocaine Threat, London (1990), and to the 17th Session of the Asian African Legal Consultative Committee in Cairo (1991). President of the World Association of Judges; Vice-President of the International Contractual Relations Commission of the International Chamber of Commerce (1976-1980); Vice-President of the Institute of International Business Law and Practice, Paris; represented Africa in the demonstration trial on the law of the sea at the World Peace through Law Conference (Manila, 1977); Fellow of the Chartered Institute of Arbitrators; Fellow of the Nigerian Institute of Advanced Legal Studies; Friend of the Institute of Advanced Legal Studies, London; Honorary Vice-President of the Association of Arbitrators (South Africa).

Member of the International Bar Association and the Association of World Lawyers.

Member of the Governing Board of the International Maritime Law Institute of the International Maritime Organization (IMO); Member of the Board of Directors of the International Development Law Institute, Rome.

President and Founder of "African Concern" (a non-political, non-religious, non-profit-making, non-governmental organization), Lusaka, Zambia (1995).

Editor, *Nigeria's Treaties in Force*, 1970-1990; Editor, *All Nigeria Law Reports*, 1961-1990; Editor-in-Chief, *Justice* (a monthly journal of contemporary legal problems); General Editor of the *Federal Ministry of Justice Law Review Series (FMJLRS)*; Member of the Editorial Advisory Board of the University of Buckingham.

Publications include: *Principles of Arbitration*, 1980; *New Concepts in the Resolution of Disputes in International Construction Contracts*, 1981; *Work Paper on International Commercial Arbitration*, 1982; *Arbitration and State Enterprises — Case Study of Nigerian Cement Transactions*, 1983; *Modernization of National Arbitration Laws in Aid of International Commercial Arbitration*, 1984; *The Law and Settlement of Commercial Disputes*, 1984; *Law Development and Administration in Nigeria*, 1987; *Towards a Better Administration of Justice System in Nigeria*, 1988; *Integration of the African Continent through Law*, 1988; *Narcotics: Law and Policy in Nigeria*, 1989; *Compensation and Remedies for Victims of Crime*, 1989; *Banking Frauds and Other Financial Malpractices in Nigeria*, 1989; *Women and Children under Nigerian Law*, 1990; *Scheme relating to Mutual Assistance in Criminal Matters and the Control of Criminal Activities within Africa*, 1990; "Human Rights under Military Rule in Africa: The Nigerian Experience" in *Essays in Honour of Judge Taslim Olawale Elias*, 1991. Gave a series of lectures on human rights in Accra, Ghana, under the auspices of the Ghana Bar Association, entitled "Human Rights Agenda for a Stable 21st Century". Author of numerous articles and conference papers.

1987 World Jurist Award (under the auspices of World Peace through Law) at Seoul; Senior Advocate of Nigeria; Recipient of 1986 Ogun State of Nigeria Outstanding Citizen Merit Award; Life Member, Nigerian Institute of International Affairs; Life Member, Body of Benchers, Nigeria; Knight of the Order of the British Empire; Patron of the Nigerian Society of International Law.

Judge *ad hoc* Yves L. FORTIER

(Judge *ad hoc* in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*.)

Born in Quebec, Canada, on 11 September 1935.

Bachelor of Arts *magna cum laude* of the University of Montreal (1955); Bachelor of Civil Law, McGill University (1958); and Bachelor of Letters as a Rhodes Scholar at Oxford University (1960). Doctor of Laws *honoris causa*, the Law Society of Upper Canada (1989), Acadia University (1992) and the University of British Columbia (1993).

Admitted to the Bar of the Province of Quebec (1961). Joined at that time the predecessor firm of Ogilvy Renault of which he is Chairman since 1992. Queen's Counsel (1976). Officer of the Order of Canada (1984), elevated to the level of Companion in the Order (1991). Awarded the Médaille d'Or of the Quebec Bar (1992). President's Award of the Canadian Bar Association (1995).

Pleaded important cases before all court jurisdictions in Canada and before domestic as well as international arbitral panels. Served as an arbitrator on many international arbitration panels constituted by various arbitration centres, including the International Chamber of Commerce (Paris), the London Court of International Arbitration, the American Arbitration Association, the Chamber of Commerce of Zurich and the International Centre for the Settlement of Investment Disputes (ICSID). Counsel for Canada before the International Court of Justice in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (1984). Since being called to the Bar, has served as Counsel to many Royal Commissions and Commissions of Inquiry in Canada. Canada's Chief Negotiator in the Canada-France fishing dispute (1987-1989). Counsel for Canada before the *ad hoc* International Panel of Arbitrators constituted to determine the maritime boundary between Canada and France in the North Atlantic (1991). Canada's Chief Negotiator for the Canada-United States Pacific Salmon Treaty negotiations (1993-1998). Special Negotiator of the Government of Quebec to the Cree Nation (1995). Appointed by the Security Council of the United Nations as Chairman of Panel C of the United Nations Compensation Commission in Geneva (Iraq-Kuwait) (1993) and of Panel E/F (1999). Counsel for Canada in the mediation of the Canada-United States Pacific Salmon dispute (1995). Secretary-General's Special Envoy to Malaysia (1997). Member of the Claims Resolution Tribunal for Dormant Accounts in Switzerland (1998).

Canada's Ambassador and Permanent Representative to the United Nations in New York (1988-1992). Canada's Chief Delegate to the 43rd, 44th, 45th and 46th Sessions of the United Nations General Assembly (1988-1991). Vice-President of the 45th General Assembly (1990). Canada's Representative to the Security Council of the United Nations (1989-1990). President of the Council (1989).

Director of the Royal Bank of Canada, Hudson's Bay Company, RBC Holdings (USA) Inc., Nortel Networks Corporation, Nova Chemicals Corporation, DuPont Canada Inc., Southam Inc., and other Canadian companies. Former Governor of McGill University and former administrator of the Institut neurologique de Montreal and of the Institut de recherches cliniques de Montreal. Director or governor of several non-profit organizations including the Council for Canadian Unity, the C. D. Howe Institute, the Canadian Foundation for AIDS research (CANFAR) and the Canadian Institute for Advanced Legal Studies. One of the Founding Directors of the Canadian Bar Association Law for the Future Fund and Honorary Patron of the International Centre for Human Rights and Democratic Development. Director of the

International Peace Academy and the United Nations International School. Member of the Executive Board of the International Association of Permanent Representatives to the United Nations.

Member of numerous professional organizations, including the Canadian Bar Association, which he headed as National President in 1982-1983, the American Bar Association (honorary), the International Commission of Jurists (Canadian Section), the International Bar Association, the Union Internationale des Avocats, the ICC Institute of International Business Law and Practice, the International Law Association (Canadian Branch), the American College of Trial Lawyers (member of the Board of Regents, 1992-1996) and the American Society of International Law.

During past years, has concentrated activities in the field of international arbitration. President of the London Court of International Arbitration (since 1998). Member of numerous institutions for international arbitration. Member of the CPR International Panel of Distinguished Neutrals, the Quebec National and International Commercial Arbitration Centre (Chairman, Committee of Experts), the British Columbia International Commercial Arbitration Centre (member, Panel of Arbitrators), the International Council for Commercial Arbitration (ICCA), the Court of Arbitration for Sport (CAS), the Legal Service and Research Centre (LSRC), and the International Arbitration Club (London).

Member of the Permanent Court of Arbitration (1984-1989). Legal Adviser to the Commission on Global Governance in Geneva (1992-1995). Member of the Trilateral Commission (member of the North American Executive Committee (since 1995)).

Judge *ad hoc* Giorgio GAJA

(Judge *ad hoc* in the case concerning *Legality of Use of Force (Yugoslavia v. Italy)*.)

Born in Lucerne, Switzerland, on 7 December 1939. Italian nationality.

Master's degree in law, University of Rome (1960). *"Libera docenza"* in international law (1968). Honorary Doctor of Law, Dickinson Law School (1985).

Professor of International Law, University of Florence (since 1974). Dean of the Law Faculty (1978-1981).

Lecturer, Hague Academy of International Law (1981). Visiting Professor, European University Institute (1980 and 1984-1985). Visiting Professor, Johns Hopkins University (1977-1978), University of Geneva (1983 and 1985), University of Paris I (1989), University of Aix-Marseille III (1992), University of Michigan School of Law (1992), and Columbia Law School (1996).

Delegate of the Italian Government to the Vienna Conference on the

Law of Treaties between States and International Organizations and between International Organizations (1986). Counsel to the Italian Government in the *ELSI* case before the International Court of Justice. Member of a Committee of Experts in International Law established by the Legal Service of the Commission of the European Union.

Member of the Institut de droit international. Director of the *Rivista di Diritto internazionale*. Member of the Management Committee of the *Italian Yearbook of International Law*. Member of the Advisory Board of the *Common Market Law Review*, *European Journal of International Law* and *Columbia Journal of European Law*.

Principal publications: *L'esaurimento dei ricorsi interni nel diritto internazionale*, 1967; *La deroga alla giurisdizione italiana*, 1971; *International Commercial Arbitration. The New York Convention* (edited looseleaf volumes), 1978-; *La riforma del diritto internazionale privato e processuale* (edited volume), 1994; *Introduzione al diritto comunitario*, 1996; "River Pollution in International Law", *Hague Academy of International Law Colloquium. The Protection of the Environment and International Law*, 1975; "Considerazioni sugli effetti delle sentenze di merito della Corte internazionale di giustizia", *Comunicazioni e Studi*, Vol. XIV, 1975; "Reservations to Treaties and the Newly Independent States", *Italian Yearbook of International Law*, Vol. I, 1975; "The European Community's Participation in the Law of the Sea Convention: Some Incoherencies in a Compromise Solution", *Italian Yearbook of International Law*, Vol. 5, 1980-1981; "Jus Cogens beyond the Vienna Convention", Hague Academy of International Law, *Recueil des cours*, Vol. 172, 1981; "The European Community's Rights and Obligations under Mixed Agreements", *Mixed Agreements*, 1983; "Effets directs et réciprocité dans la jurisprudence concernant l'accord entre la Communauté européenne et la Suisse", *Annuaire suisse de droit international*, Vol. XL, 1984; "Instruments for Legal Integration in the European Community: A Review" (with P. Hay and R. D. Rotunda), *Integration through Law: Europe and the American Federal Experience* (M. Cappelletti, M. Seccombe and J. Weiler, eds.), 1986, Vol. I.2; "Principi generali del diritto (diritto internazionale)", *Enciclopedia del Diritto*, Vol. XXXV, 1986; "Unruly Treaty Reservations", *International Law at the Time of Its Codification. Essays in Honour of Roberto Ago*, 1987, Vol. I; "Italy", *The Effect of Treaties in Domestic Law* (F. G. Jacobs and S. Roberts, eds.), 1987; "A 'New' Vienna Convention on Treaties between States and International Organizations or between International Organizations: A Critical Commentary", *British Year Book of International Law*, Vol. 58, 1987; "Obligations Erga Omnes, International Crimes and Jus Cogens: A Tentative Analysis of Three Related Concepts", *International Crimes of States*, 1989; "New Developments in a Continuing Story: The Relationship between EEC Law and Italian Law", *Common Market Law Review*, Vol. 27, 1990; "Measures against Terrorist Acts under International Law", *Maritime Terrorism and International Law*, 1990; "Positivism and Dualism in Dionisio Anzilotti", *European Journal of*

International Law, Vol. 3, 1992; "Reflexions sur le rôle du Conseil de securite dans le nouvel ordre mondial. A propos des rapports entre maintien de la paix et crimes internationaux des Etats", *Revue générale de droit international public*, 1993; "La Convention Europeenne des Droits de l'Homme dans les ordres juridiques des Etats membres de la Communaute Européenne", *Grundrechtsschutz im europäischen Raum*, 1993; "Beyond the Reasons Stated in Judgments", *Michigan Law Review*, Vol. 92, 1993-1994; "The Protection of Human Rights under the Maastricht Treaty", *Institutional Dynamics of European Integration. Essays in Honour of Henry G. Schermers*, 1994, Vol. II; "Use of Force Made or Authorized by the United Nations", *The United Nations at Age Fifty. A Legal Perspective*, 1995; "Some Reflections on the European Community's International Responsibility", *The Actions for Damages in Community Law*, 1997; "Identifying the Status of General Principles in European Community Law", *Scritti in onore di Giuseppe Federico Mancini*, 1998, Vol. II; "How Flexible Is Flexibility under the Amsterdam Treaty?", *Common Market Law Review*, Vol. 35, 1998; "Restraints Imposed by European Community Law on the Treaty-Making Power of the Member States", 1998.

Judge *ad hoc* Milenko KRECA

(Judge *ad hoc* in the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)* and *Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) (Yugoslavia v. Spain) (Yugoslavia v. United Kingdom) (Yugoslavia v. United States of America)*.)

Born in Sisak, Croatia, on 19 August 1947.

Received M.A. and Ph.D. (LL.D.) degrees *cum laude* from the School of Law, Belgrade University.

Upon graduation, practised law as an attorney (1973-1974).

Assistant Professor (1975), Docent (1978) and Associate Professor (1985) at the Belgrade School of Law. Full-time Professor of International Public Law (1990) and Associate Dean (1989-1991) at the Belgrade School of Law. Head of Chair of International Law and International Relations at the Faculty of Law in Belgrade (since 1997); Director of the Institute for International Politics and Economics (since 1997); President of the Council of the Institute for Comparative Law (since 1997); Member of the Federal Commission for Harmonization of FRY Law with the Laws of EU, EC and WTO (since 1998); Member of the Board of the Faculty of Law in Belgrade (since 1998).

Was on several occasions legal adviser to the Ministry of Foreign

Affairs and Government of the Federal Republic of Yugoslavia and to other organs of the Republic of Serbia and the Federal Republic of Yugoslavia.

Founder and Editor in Chief of the *Review of EU Legislation* (Belgrade: Institute for International Politics and Economics).

Papers and books: *Practical Course in International Law* (co-author), 1980; *International Public Law* (co-author), 1983, 1986, 1989, 1990, 1991, 1993, 1996; *Sources of International Public Law*, 1979, 1985; *Treaty-making Power of the State in International Law, with a Special Review of Federal States*, 1988; *Absolutely Binding Norms (Ius Cogens) in International Public Law*, 1989; *Material for International Public Law*, I-III (co-author), 1988-1989; *Law of the Sea — Scientific Research of the Sea and Transfer of Marine Technology*, 1990; *Treaty-making Power of the State in International Law*, 1991. Author of over 70 articles and papers in Serbian and foreign languages, including: "Some General Reflections on Main Features of *Ius Cogens* as a Notion of International Public Law", in *New Directions in International Law, Essays in Honour of W. Abendroth*, 1982; "Quelques observations sur le problème de la hiérarchie des règles de droit dans le droit international public", in *Yugoslav Review of International Law*, No. 1, 1980; "Constitutional Provisions Regulating Activity of Federal Units in International Relations", in *Yugoslav Review of International Law*, No. 1, 1992.

Judge *ad hoc* Patrick Fernand Odiel Marie DUINSLAEGER

(Judge *ad hoc* in the case concerning *Legality of Use of Force (Yugoslavia v. Belgium)*)

Born at Ostend, Belgium, on 30 May 1953.

Licencié en droit, University of Brussels (First Class Honours) (1978).

Trainee advocate at the Brussels Bar and judicial trainee in the Public Prosecutor's Office at the Brussels Court of First Instance (1978-1983); Deputy Prosecutor (1983), and Senior Deputy Prosecutor, Crown Prosecutor's Office, Brussels (1988); Deputy Prosecutor-General, Court of Appeal, Brussels (1991).

Joint Director, Interforces Anti-terrorist Group (1984-1997); Joint Director, Special Police Unit for the Suppression of Terrorism and Organized Crime (1987-1997).

Member of various supervisory committees set up by the Minister of the Interior to oversee university research (1988-1997). Lecturer [*chargé de cours*] at the Ecole de Criminologie et de Criminalistique (Institut National de Criminologie et de Criminalistique) (1989-1997).

Chair of the Belgian Delegation to the "Benelux" Working Group for International Co-operation (1993).

Senior State Judicial Officer responsible for national and international co-ordination of the fight against organized crime and for international police and judicial co-operation (1991-1997).

Appointed Judicial Liaison Officer for Belgium to the International Criminal Tribunal for the former Yugoslavia and to the International Criminal Tribunal for Rwanda (1995-1998).

Head of Cabinet to the Minister of Justice (1998-1999).

Advocate-General at the Court of Cassation (1999).

Knight of the Order of Leopold.

Knight of the Order of the Crown.

CHAPTER III

JURISDICTION OF THE COURT

I. JURISDICTION IN CONTENTIOUS CASES

It is the function of the International Court of Justice to decide in accordance with international law such disputes as are submitted to it (Statute, Art. 38, para. 1). Its jurisdiction in this respect is defined in Article 93 of the Charter of the United Nations and in Articles 34-37 of the Statute of the Court.

1. States Entitled to Appear before the Court

Article 34, paragraph 1, of the Statute provides that: "Only States may be parties in cases before the Court." International organizations, other collectivities and private persons are therefore not entitled to institute proceedings before the Court.

A State entitled to appear before the Court may fall into one of three categories:

(a) *States Members of the United Nations*

Article 35, paragraph 1, of the Statute provides that the Court shall be open to the States parties to the Statute, and Article 93, paragraph 1, of the Charter of the United Nations provides that all Members of the United Nations are *ipso facto* parties to the Statute.

On 31 July 1999 the following 185 States were Members of the United Nations:

State	*Date of Admission*
Afghanistan	19 November 1946
Albania	14 December 1955
Algeria	8 October 1962
Andorra	28 July 1993
Angola	1 December 1976
Antigua and Barbuda	11 November 1981
Argentina	Original Member
Armenia	2 March 1992
Australia	Original Member
Austria	14 December 1955
Azerbaijan	2 March 1992
Bahamas	18 September 1973
Bahrain	21 September 1971
Bangladesh	17 September 1974
Barbados	9 December 1966

State	*Date of Admission*
Belarus	Original Member
Belgium	[illegible]
Belize	25 September 1981
Benin	20 September 1960
Bhutan	21 September 1971
Bolivia	Original Member
Bosnia and Herzegovina	22 May 1992
Botswana	17 October 1966
Brazil	Original Member
Brunei Darussalam	21 September 1984
Bulgaria	14 December 1955
Burkina Faso	20 September 1960
Burundi	18 September 1962
Cambodia	14 December 1955
Cameroon	20 September 1960
Canada	Original Member
Cape Verde	16 September 1975
Central African Republic	20 September 1960
Chad	[illegible]
Chile	Original Member
China	[illegible]
Colombia	[illegible]
Comoros	12 November 1975
Congo	20 September 1960
Costa Rica	Original Member
Côte d'Ivoire	20 September 1960
Croatia	22 May 1992
Cuba	Original Member
Cyprus	20 September 1960
Czech Republic	19 January 1993
Democratic People's Republic of Korea	17 September 1991
Democratic Republic of the Congo	20 September 1960
Denmark	Original Member
Djibouti	20 September 1977
Dominica	18 December 1978
Dominican Republic	Original Member
Ecuador	[illegible]
Egypt	[illegible]
El Salvador	[illegible]
Equatorial Guinea	12 November 1968
Eritrea	28 May 1993
Estonia	17 September 1991
Ethiopia	Original Member
Fiji	13 October 1970
Finland	14 December 1955
France	Original Member

State	*Date of Admission*
Gabon	20 September 1960
Gambia	21 September 1965
Georgia	31 July 1992
Germany	18 September 1973
Ghana	8 March 1957
Greece	Original Member
Grenada	17 September 1974
Guatemala	Original Member
Guinea	12 December 1958
Guinea-Bissau	17 September 1974
Guyana	20 September 1966
Haiti	Original Member
Honduras	[illegible]
Hungary	14 December 1955
Iceland	19 November 1946
India	Original Member
Indonesia	28 September 1950
Iran (Islamic Republic of)	Original Member
Iraq	[illegible]
Ireland	14 December 1955
Israel	11 May 1949
Italy	14 December 1955
Jamaica	18 September 1962
Japan	18 December 1956
Jordan	14 December 1955
Kazakhstan	2 March 1992
Kenya	16 December 1963
Kuwait	14 May 1963
Kyrgyzstan	2 March 1992
Lao People's Democratic Republic	14 December 1955
Latvia	17 September 1991
Lebanon	Original Member
Lesotho	17 October 1966
Liberia	Original Member
Libyan Arab Jamahiriya	14 December 1955
Liechtenstein	18 September 1990
Lithuania	17 September 1991
Luxembourg	Original Member
Madagascar	20 September 1960
Malawi	1 December 1964
Malaysia	17 September 1957
Maldives	21 September 1965
Mali	28 September 1960
Malta	1 December 1964
Marshall Islands	17 September 1991
Mauritania	27 October 1961

State	*Date of Admission*
Mauritius	24 April 1968
Mexico	Original Member
Micronesia (Federated States of)	17 September 1991
Monaco	28 May 1993
Mongolia	27 October 1961
Morocco	12 November 1956
Mozambique	16 September 1975
Myanmar	19 April 1948
Namibia	23 April 1990
Nepal	14 December 1955
Netherlands	Original Member
New Zealand	" "
Nicaragua	" "
Niger	20 September 1960
Nigeria	7 October 1960
Norway	Original Member
Oman	7 October 1971
Pakistan	30 September 1947
Palau	15 December 1994
Panama	Original Member
Papua New Guinea	10 October 1975
Paraguay	Original Member
Peru	" "
Philippines	" "
Poland	" "
Portugal	14 December 1955
Qatar	21 September 1971
Republic of Korea	17 September 1991
Republic of Moldova	2 March 1992
Romania	14 December 1955
Russian Federation	Original Member
Rwanda	18 September 1962
Saint Kitts and Nevis	23 September 1983
Saint Lucia	18 September 1979
Saint Vincent and the Grenadines	16 September 1980
Samoa	15 December 1976
San Marino	2 March 1992
Sao Tome and Principe	16 September 1975
Saudi Arabia	Original Member
Senegal	28 September 1960
Seychelles	21 September 1976
Sierra Leone	27 September 1961
Singapore	21 September 1965
Slovakia	19 January 1993
Slovenia	22 May 1992
Solomon Islands	19 September 1978

State	*Date of Admission*
Somalia	20 September 1960
South Africa	Original Member
Spain	14 December 1955
Sri Lanka	" "
Sudan	12 November 1956
Suriname	4 December 1975
Swaziland	24 September 1968
Sweden	19 November 1946
Syrian Arab Republic	Original Member
Tajikistan	2 March 1992
Thailand	16 December 1946
The former Yugoslav Republic of Macedonia	8 April 1993
Togo	20 September 1960
Trinidad and Tobago	18 September 1962
Tunisia	12 November 1956
Turkey	Original Member
Turkmenistan	2 March 1992
Uganda	25 October 1962
Ukraine	Original Member
United Arab Emirates	9 December 1971
United Kingdom of Great Britain and Northern Ireland	Original Member
United Republic of Tanzania	14 December 1961
United States of America	Original Member
Uruguay	" "
Uzbekistan	2 March 1992
Vanuatu	15 September 1981
Venezuela	Original Member
Viet Nam	20 September 1977
Yemen	30 September 1947
Yugoslavia	Original Member
Zambia	1 December 1964
Zimbabwe	25 August 1980

(b) *States, not members of the United Nations, parties to the Statute*[1]

Article 93, paragraph 2, of the Charter of the United Nations provides that States which are not members of the United Nations may become parties to the Statute of the Court on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

The conditions laid down have hitherto been the same in each case. They were laid down for the first time as a result of a request by the Swiss

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[1] The full text of the resolutions referred to in this section is given on pages 175-187 of *I.C.J. Acts and Documents No. 5.*

Federal Council; on that occasion the General Assembly, on 11 December 1946, adopted resolution 91 (I) which prescribed the following conditions:

> "(*a*) Acceptance of the provisions of the Statute of the International Court of Justice;
>
> (*b*) Acceptance of all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> (*c*) An undertaking to contribute to the expenses of the Court such equitable amount as the General Assembly shall assess from time to time after consultation with the Swiss Government."[1]

The date on which the State concerned becomes a party to the Statute is that of the deposit with the Secretary-General of the United Nations of the instrument of acceptance of the conditions.

Pursuant to Article 4, paragraph 3, of the Statute, the conditions on which such a State may participate in the election of Members of the Court were laid down in resolution 264 (III) adopted by the General Assembly, upon the recommendation of the Security Council, on 8 October 1948. The operative part of this resolution lays down that:

> "1. Such a State shall be on an equal footing with the Members of the United Nations in respect to those provisions of the Statute which regulate the nominations of candidates for election by the General Assembly.
>
> 2. Such a State shall participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations.
>
> 3. Such a State, when in arrears in the payment of its contribution to the expenses of the Court, shall not participate in electing the members of the Court in the General Assembly if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a State to participate in the elections if it is satisfied that the failure to pay is due to conditions beyond the control of that State (see Charter, Article 19)."

The participation of such States in the procedure for amending the Statute of the Court (Charter, Art. 108; Statute, Art. 69) is governed by the following provisions of resolution 2520 (XXIV) adopted by the General Assembly, upon the recommendation of the Security Council, on 4 December 1969:

> "(*a*) A State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations, may participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations;
>
> (*b*) Amendments to the Statute of the International Court of Jus-

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[1] See below, Chap. VIII, p. 158.

> tice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two-thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two-thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."

The following States not members of the United Nations are at present parties to the Statute[1]:

State	*Resolution of the General Assembly*	*Deposit of the instrument of acceptance*
Nauru	42/21, 18 November 1987	29 January 1988
Switzerland	91 (I), 11 December 1946	28 July 1948

(c) *States, not parties to the Statute, to which the Court may be open*

The Court, which is open to States parties to the Statute, is also open to other States, in accordance with Article 35, paragraph 2, of the Statute[2]. This Article provides that the conditions upon which the Court shall be open to such States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

On 15 October 1946, the Security Council adopted resolution 9 (1946) which reads as follows:

> "The Security Council
>
> In virtue of the powers conferred upon it by Article 35, paragraph 2, of the Statute of the International Court of Justice and subject to the provisions of that Article,
>
> Resolves that:
>
> 1. The International Court of Justice shall be open to a State which is not a party to the Statute of the International Court of Justice, upon the following condition, namely, that such State shall previously have deposited with the Registrar of the Court a declaration by which it accepts the jurisdiction of the Court, in accordance with the Charter of the United Nations and with the terms and subject to the conditions of the Statute and Rules of the Court, and undertakes to comply in good faith with the decision or decisions of the Court and to accept all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> 2. Such declaration may be either particular or general. A particular declaration is one accepting the jurisdiction of the Court in respect

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[1] Before becoming Members of the United Nations, Japan, Liechtenstein and San Marino were parties to the Statute of the Court, as from 2 April 1954, 29 March 1950 and 18 February 1954 respectively.

[2] See also Rules, Art. 26, para. 1 (c), and Art. 41, and below, Chap. VIII, p. 356.

only of a particular dispute or disputes which have already arisen. A general declaration is one accepting the jurisdiction generally in respect of all disputes or of a particular class or classes of disputes which have already arisen or which may arise in the future. A State, in making such a general declaration, may, in accordance with Article 36, paragraph 2, of the Statute, recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Court, provided, however, that such acceptance may not, without explicit agreement, be relied upon vis-à-vis States parties to the Statute which have made the declaration in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice.

3. The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court, in accordance with the practice of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all States parties to the Statute of the International Court of Justice, and to such other States as shall have deposited a declaration under the terms of this resolution, and to the Secretary-General of the United Nations.

4. The Security Council reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court, and on the receipt of such communication and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court.

5. All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court."

In the past, particular declarations have been filed by Albania (1947) and by Italy (1953); and general declarations by Cambodia (1952), Ceylon (1952), the Federal Republic of Germany (1955, 1956, 1961, 1965 and 1971), Finland (1953 and 1954), Italy (1955), Japan (1951), Laos (1952), and the Republic of Viet Nam (1952).

2. *Basis of the Court's Jurisdiction*

The jurisdiction of the Court in contentious proceedings is based on the consent of the States to which it is open[1]. The form in which this consent is expressed determines the manner in which a case may be brought before the Court.

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[1] In the following eight cases, the Court found that it could take no further steps upon an Application in which it was admitted that the opposing party did not accept its jurisdiction: *Treatment in Hungary of Aircraft and Crew of United States of America* (*United States of America v. Hungary*; *United States of America v. USSR*); *Aerial Incident of 10 March 1953* (*United States of America v. Czechoslovakia*); *Antarctica* (*United Kingdom v. Argentina*; *United Kingdom v. Chile*); *Aerial Incident of 7 October 1952* (*United States of America v. USSR*); *Aerial Incident of 4 September 1954* (*United States of America v. USSR*); *Aerial Incident of 7 November 1954* (*United States of America v. USSR*). On 1 July 1978 the present Rules of Court came into force; Article 38, paragraph 5, of which provides:

(a) *Special agreement*

Article 36, paragraph 1, of the Statute provides that the jurisdiction of the Court comprises all cases which the parties refer to it. Such cases normally come before the Court by notification to the Registry of an agreement known as a *special agreement* and concluded by the parties specially for this purpose[1]. The subject of the dispute and the parties must be indicated (Statute, Art. 40, para. 1; Rules, Art. 39).

(b) *Cases provided for in treaties and conventions*

Article 36, paragraph 1, of the Statute provides also that the jurisdiction of the Court comprises all matters specially provided for in treaties and conventions in force. In such cases a matter is normally brought before

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> "When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Article 38, paragraph 5, has been applied with regard to an Application filed by Hungary on 23 October 1992 instituting proceedings against the Czech and Slovak Republic, an Application filed by the Federal Republic of Yugoslavia on 16 March 1994 instituting proceedings against the Member States of NATO, and an Application filed by Eritrea on 16 February 1999 instituting proceedings against Ethiopia (see below, p. 297). In the cases concerning *Legality of Use of Force* (*Yugoslavia* v. *France*), (*Yugoslavia* v. *Germany*), (*Yugoslavia* v. *Italy*) and (*Yugoslavia* v. *United States of America*), Yugoslavia referred to Article IX of the Genocide Convention of 1948 and to Article 38, paragraph 5, of the Rules of Court as bases for the jurisdiction of the Court. The cases were entered in the General List on the basis of the reference to Article IX of the Genocide Convention.

[1] The following 14 cases were submitted to the Court by means of special agreements: *Asylum* (*Colombia/Peru*); *Minquiers and Ecrehos* (*France/United Kingdom*); *Sovereignty over Certain Frontier Land* (*Belgium/Netherlands*); *North Sea Continental Shelf* (*Federal Republic of Germany/Denmark*; *Federal Republic of Germany/Netherlands*); *Continental Shelf* (*Tunisia/Libyan Arab Jamahiriya*); *Delimitation of the Maritime Boundary in the Gulf of Maine Area* (*Canada/United States of America*) (case referred to a Chamber); *Continental Shelf* (*Libyan Arab Jamahiriya/Malta*); *Frontier Dispute* (*Burkina Faso/Republic of Mali*) (case referred to a Chamber); *Land, Island and Maritime Frontier Dispute* (*El Salvador/Honduras*) (case referred to a Chamber); *Territorial Dispute* (*Libyan Arab Jamahiriya/Chad*); *Gabčíkovo-Nagymaros Project* (*Hungary/Slovakia*); *Kasikili/Sedudu Island* (*Botswana/Namibia*); *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia/Malaysia*). In the *Corfu Channel* (*United Kingdom* v. *Albania*) case the Parties made a special agreement after delivery of the Judgment on the Preliminary Objection. The case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906* (*Honduras* v. *Nicaragua*) was submitted by means of an application, but the Parties had previously concluded an agreement on the procedure to be followed in submitting the dispute to the Court.

the Court by means of a written *application instituting proceedings*[1]; this is a unilateral document which must indicate the subject of the dispute and the parties (Statute, Art. 40, para. 1) and, as far as possible, specify the provision on which the applicant founds the jurisdiction of the Court (Rules, Art. 38).

A list of treaties and conventions governing the jurisdiction of the International Court of Justice in contentious cases is given in Chapter IV (Sec. III) of the present *Yearbook* (pp. 131-149). Furthermore, some of the agreements and conventions mentioned in Section I of Chapter IV (pp. 82-88) relate, in particular, to the jurisdiction of the Court in contentious proceedings.

To these instruments must be added other treaties and conventions concluded earlier and conferring jurisdiction upon the *Permanent Court of International Justice*, for Article 37 of the Statute of the International Court of Justice stipulates that whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the *Permanent Court of International Justice*, the matter shall, as between the parties to the Statute, be referred to the International Court of Justice. The *Permanent Court* reproduced, in 1932, in its *Collection of Texts governing the Jurisdiction of the Court (P.C.I.J., Series D, No. 6*, fourth edition) and subsequently in Chapter X of its *Annual Reports (P.C.I.J., Series E, Nos. 8-16)* the relevant provisions of the instruments governing its jurisdiction. By virtue of the Article referred to above, some of these provisions now govern the jurisdiction of the International Court of Justice.

(c) *Compulsory jurisdiction in legal disputes*

The Statute provides that a State may recognize as compulsory, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes. These cases are brought before the Court by means of written applications. The conditions on which such compulsory jurisdiction may be recognized are stated in paragraphs 2-5 of Article 36 of the Statute, which read as follows:

> "2. The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
>
> *(a)* the interpretation of a treaty;

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[1] With the exception of the 14 cases listed on page 77, footnote 1, which were brought by the notification of a special agreement, all contentious cases have been brought before the Court by means of an application instituting proceedings, irrespective of whether the Court's jurisdiction was founded on a provision in a treaty or convention, declarations recognizing the Court's jurisdiction as obligatory made by each of the parties to the dispute, or any other alleged form of consent.

> (*b*) any question of international law;
>
> (*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
>
> (*d*) the nature or extent of the reparation to be made for the breach of an international obligation.
>
> 3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time.
>
> 4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.
>
> 5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms."

Texts of declarations accepting the compulsory jurisdiction of the Court are given in Section II of Chapter IV below (pp. 88-131).

(d) *The Court itself decides any question as to its jurisdiction*

Article 36, paragraph 6, of the Statute provides that in the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court. Article 79 of the Rules lays down the conditions which govern the filing of preliminary objections[1].

(e) *Interpretation of a judgment*

Article 60 of the Statute provides that in the event of dispute as to the meaning or scope of a judgment, the Court shall construe it upon the request of any party. The request for interpretation may be made either by means of a special agreement between the parties or of an application by one or more of the parties (Rules, Art. 98)[2].

(f) *Revision of a judgment*

An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such party's ignorance was not due to negligence (Statute, Art. 61, para. 1). A request for revision is made by means of an application (Rules, Art. 99)[1].

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[1] See below, Chap. V, Sec. III, part 3, p. 165.

[2] An application for interpretation of the Judgment was made by Colombia in respect of the *Asylum (Colombia/Peru)* case and by Nigeria in respect of the Court's Judgment on preliminary objections of 11 June 1998 in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*. Cf. p. 80, footnote 1.

II. ADVISORY JURISDICTION

The advisory jurisdiction of the Court is governed by Article 65 of the Statute and Article 96 of the Charter of the United Nations.

By virtue of Article 65 of the Statute, the Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request. An exact statement of the questions upon which the advisory opinion is asked must be contained in a *request for an advisory opinion*.

Article 96, paragraph 1, of the Charter provides that advisory opinions may be asked of the Court by the General Assembly or the Security Council on any legal question. Paragraph 2 of this Article adds:

> "Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

The following organs and agencies are at present authorized to request advisory opinions[2]:

United Nations:

General Assembly[3],

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[1] An application for revision and interpretation of the Judgment was filed by Tunisia in respect of the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

[2] The International Refugee Organization, which had been authorized to request advisory opinions of the Court, ceased to exist in 1952. The Havana Charter for an International Trade Organization, which provides for the jurisdiction of the Court in proceedings in regard to advisory opinions, has not entered into force.

[3] The General Assembly has requested 14 advisory opinions of the Court in the following 13 cases: *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)*; *Reparation for Injuries Suffered in the Service of the United Nations*; *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase*; id., *Second Phase*; *Competence of the General Assembly for the Admission of a State to the United Nations*; *International Status of South West Africa*; *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*; *Effect of Awards of Compensation Made by the United Nations Administrative Tribunal*; *Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South West Africa*; *Admissibility of Hearings of Petitioners by the Committee on South West Africa*; *Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter)*; *Western Sahara*; *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*; *Legality of the Threat or Use of Nuclear Weapons*.

Security Council[1];
Economic and Social Council[2];
Trusteeship Council;
Interim Committee of the General Assembly;

International Labour Organisation;
Food and Agriculture Organization of the United Nations;
United Nations Educational, Scientific and Cultural Organization[3];
World Health Organization[4];
International Bank for Reconstruction and Development;
International Finance Corporation;
International Development Association;
International Monetary Fund;
International Civil Aviation Organization;
International Telecommunication Union;
International Fund for Agricultural Development;
World Meteorological Organization;
International Maritime Organization[5];
World Intellectual Property Organization;
United Nations Industrial Development Organization;
International Atomic Energy Agency.

In Section I of Chapter IV of the present *Yearbook* (pp. 82-88) will be found references to the instruments by virtue of which such requests may be submitted by the above organs and agencies.

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[1] The Security Council requested an advisory opinion of the Court concerning the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*.

[2] The Economic and Social Council requested an advisory opinion of the Court in two cases: *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations* and *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*.

[3] The Executive Board of Unesco requested an advisory opinion of the Court concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco*.

[4] The World Health Assembly requested an advisory opinion of the Court in two cases: *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* and *Legality of the Use by a State of Nuclear Weapons in Armed Conflict*.

[5] The Assembly of this organization requested an advisory opinion of the Court concerning the *Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization*.

CHAPTER IV

TEXTS GOVERNING THE JURISDICTION OF THE COURT

The present chapter, which is compiled from the information available to the Registry, presents a compendium of instruments governing the jurisdiction of the Court. It takes into account, so far as the Registry is informed of them, any amendments to those instruments which have affected their provisions concerning the jurisdiction of the Court. The inclusion or omission of any instrument should not be regarded as an indication of any view entertained by the Registry, or *a fortiori* by the Court, regarding the nature, scope or validity of the instrument in question.

I. INSTRUMENTS GOVERNING THE RELATIONSHIP OF ORGANS OF THE UNITED NATIONS AND INTERNATIONAL ORGANIZATIONS WITH THE COURT

This section lists provisions for the contentious or advisory jurisdiction of the Court in the following categories of instruments: constitutional texts of public international organizations; agreements concluded between the United Nations and other international organizations; authorizations accorded by the General Assembly of the United Nations to other organs of the United Nations or to international organizations by virtue of Article 96, paragraph 2, of the Charter[1]; multilateral conventions relating to the privileges and immunities of world-wide international organizations; agreements concluded by international organizations with States.

1. United Nations

Authorization to the *General Assembly* and the *Security Council* to request advisory opinions of the International Court of Justice: Charter, Article 96, paragraph 1.

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[1] By resolution 957 (X) of 8 November 1955 the General Assembly, amending the Statute of the United Nations Administrative Tribunal (Art. 11), authorized the *Committee on Applications for Review of Judgements of the United Nations Administrative Tribunal* to request advisory opinions of the International Court of Justice. By resolution 50/54 of 11 December 1995, the General Assembly amended the Tribunal's statute again, *inter alia* deleting Article 11 with respect to Judgements rendered after 31 December 1995.

Authorization to the *Economic and Social Council* to request advisory opinions of the International Court of Justice: resolution 89 (I) of the General Assembly, 11 December 1946.

Authorization to the *Trusteeship Council* to request advisory opinions of the International Court of Justice: resolution 171 (II) of the General Assembly, 14 November 1947, paragraph B.

Authorization to the *Interim Committee of the General Assembly* to request advisory opinions of the International Court of Justice: resolution 196 (III) of the General Assembly, 3 December 1948, paragraph 3[1]

Convention on the privileges and immunities of the United Nations, adopted by the General Assembly on 13 February 1946, Article VIII, Section 30 (United Nations, *Treaty Series*, I, No. 4, Vol. 1).

Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 26 June 1947, Article VIII, Section 21 (United Nations, *Treaty Series*, I, No. 147, Vol. 11).

Agreement between Chile and the United Nations Economic Commission for Latin America regulating conditions for the operation, in Chile, of the Headquarters of the Commission, 16 February 1953, Article XI, Section 21 (United Nations, *Treaty Series*, I, No. 4541, Vol. 314).

Agreement between the United Nations and Thailand relating to the Headquarters of the Economic Commission for Asia and the Far East in Thailand, 26 May 1954, Article XIII, Section 26 (United Nations, *Treaty Series*, I, No. 3703, Vol. 260).

Agreement between the United Nations and Ethiopia regarding the Headquarters of the United Nations Economic Commission for Africa, 18 June 1958, Article IX (United Nations, *Treaty Series*, I, No. 4597, Vol. 317).

Agreement between the United Nations and Japan regarding the Headquarters of the United Nations University, 14 May 1976, Section 22 (United Nations, *Treaty Series*, I, No. 14839, Vol. 1009).

Agreement between the United Nations and Greece regarding the headquarters of the Co-ordinating Unit for the Mediterranean Action Plan, 11 February 1982, Section 26 (United Nations, *Treaty Series*, I, No. 20736, Vol. 1261).

2. All Specialized Agencies

Convention on the privileges and immunities of the specialized agencies, approved by the General Assembly of the United Nations on

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[1] The mandate of the Interim Committee was extended indefinitely by resolution 295 (IV) of the General Assembly of 21 November 1949, paragraph 3 of which preserved its authority to request advisory opinions of the Court.

21 November 1947, Article VII, Section 24, and Article IX, Section 32 (United Nations, *Treaty Series*, I, No. 521, Vol. 33).

3. International Labour Organisation

Instrument for the amendment of the Constitution of the International Labour Organisation, 9 October 1946, Articles 29, 31-34 and 37 (United Nations, *Treaty Series*, I, No. 229, Vol. 15).

Agreement between the United Nations and the International Labour Organisation, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 9, Vol. 1).

Statute of the Administrative Tribunal of the International Labour Organisation, adopted by the International Labour Conference on 9 October 1946 and modified by the Conference on 29 June 1949, Article XII[1].

4. Food and Agriculture Organization of the United Nations

Constitution of the Food and Agriculture Organization of the United Nations, 16 October 1945, as amended in 1957, Article XVII (Food and Agriculture Organization of the United Nations, *Basic Texts*, Vol. I, 1968).

Agreement between the United Nations and the Food and Agriculture Organization of the United Nations, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 10, Vol. 1).

Terms of appointment of the Director-General of the Food and Agriculture Organization of the United Nations: recommendation by the Conference of the Organization, 27 October 1945, paragraph 3 (Food and Agriculture Organization of the United Nations, *Report of the First Session of the Conference*, 16 October-1 November 1945).

5. United Nations Educational, Scientific and Cultural Organization

Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, Articles V, paragraph 11 (adopted in

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[1] The jurisdiction of this Tribunal, which is open to officials of the International Labour Organisation or other persons claiming under the terms of appointment of an official, has been recognized also by the following international organizations, which are authorized to request advisory opinions: Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization; World Health Organization; International Telecommunication Union; World Meteorological Organization; World Intellectual Property Organization; International Atomic Energy Agency.

1952), and XIV, paragraph 2 (United Nations, *Treaty Series*, I, No. 52, Vol. 4)[1].

Agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization, approved by the General Assembly of the United Nations on 14 December 1946, as revised and approved by the General Assembly of the United Nations on 8 December 1962, Article X[2] (United Nations, *Treaty Series*, II, No. 11, Vol. 1; *ibid.*, General Assembly, resolution 1786 (XVII)).

Agreement between the United Nations Educational, Scientific and Cultural Organization and France regarding the Headquarters of Unesco and the privileges and immunities of the Organization on French territory, 2 July 1954, Article 29 (United Nations, *Treaty Series*, I, No. 5103, Vol. 357).

6. World Health Organization

Constitution of the World Health Organization, 22 July 1946, Articles 75-77 (United Nations, *Treaty Series*, I, No. 221, Vol. 14).

Agreement between the United Nations and the World Health Organization, approved by the General Assembly of the United Nations on 15 November 1947, Article X (United Nations, *Treaty Series*, II, No. 115, Vol. 19).

7. International Bank for Reconstruction and Development, International Finance Corporation and International Development Association

Agreement between the United Nations and the International Bank for Reconstruction and Development, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 109, Vol. 16).

Agreement on relationship between the United Nations and the International Finance Corporation, approved by the General Assembly of the United Nations on 20 February 1957, paragraph 1 (United Nations, *Treaty Series*, II, No. 546, Vol. 265).

Agreement on relationship between the United Nations and the International Development Association, approved by the General Assembly of the United Nations on 27 March 1961, Article I (United Nations, *Treaty Series*, II, No. 582, Vol. 394).

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[1] See also Rules of Procedure of the General Conference of Unesco, Rule 33, and the Protocol of 10 December 1962 instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States parties to the Convention against Discrimination in Education, Article 18 (Unesco document 12C Resolutions).

[2] Article XI before the revision of 1962.

8. International Monetary Fund

Agreement between the United Nations and the International Monetary Fund, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 108, Vol. 16).

9. International Civil Aviation Organization

Convention on International Civil Aviation, 7 December 1944, Articles 84-86 (United Nations, *Treaty Series*, I, No. 10612, Vol. 740; ICAO, *Convention on International Civil Aviation*, 1969).

Agreement between the United Nations and the International Civil Aviation Organization, approved by the General Assembly of the United Nations on 14 December 1946, Article X (United Nations, *Treaty Series*, II, No. 45, Vol. 8).

Agreement between the International Civil Aviation Organization and Canada regarding the Headquarters of the Organization, 14 April 1951, Article VII, Section 31 (United Nations, *Treaty Series*, I, No. 1335, Vol. 96).

10. International Telecommunication Union

Agreement between the United Nations and the International Telecommunication Union, approved by the General Assembly of the United Nations on 15 November 1947, Article VII (United Nations, *Treaty Series*, II, No. 175, Vol. 30).

11. World Meteorological Organization

Agreement between the United Nations and the World Meteorological Organization, approved by the General Assembly of the United Nations on 20 December 1951, Article VII (United Nations, *Treaty Series*, II, No. 415, Vol. 123).

12. International Maritime Organization

Convention on the Inter-Governmental Maritime Consultative Organization, 6 March 1948, entered into force on 17 March 1958, Articles 55 and 56 (United Nations, *Treaty Series*, I, No. 4214, Vol. 289)[1].

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[1] As from 22 May 1982 the Inter-Governmental Maritime Consultative Organization (IMCO) became the International Maritime Organization (IMO); the name of the organization was changed in the title of the 1948 Convention and the relevant Articles of the Convention were re-numbered 69 and 70.

Agreement between the United Nations and the Inter-Governmental Maritime Consultative Organization, approved by the General Assembly of the United Nations on 18 November 1948, entered into force on 13 January 1959, Article IX (United Nations, *Treaty Series*, II, No. 553, Vol. 324).

13. World Intellectual Property Organization

Agreement between the United Nations and the World Intellectual Property Organization, approved by the General Assembly of the United Nations on 17 December 1974, Article 12 (United Nations, *Treaty Series*, II, No. 729).

14. International Fund for Agricultural Development

Agreement between the United Nations and the International Fund for Agricultural Development, approved by the General Assembly of the United Nations on 15 December 1977, Article XIII (United Nations, *Treaty Series*, II, No. 806, Vol. 1080).

15. United Nations Industrial Development Organization

Constitution of the United Nations Industrial Development Organization, 8 April 1979, Article 22 (United Nations, *Treaty Series*, I, No. 23432, Vol. 1401).

Agreement between the United Nations Organization and the United Nations Industrial Development Organization, approved by the General Assembly of the United Nations on 17 December 1985, Article 12.

16. International Atomic Energy Agency

Statute of the International Atomic Energy Agency, 26 October 1956, Article XVII (United Nations, *Treaty Series*, I, No. 3988, Vol. 276).

Agreement concerning the relationship between the United Nations and the International Atomic Energy Agency, approved by the General Assembly of the United Nations on 14 November 1957, Article X (United Nations, *Treaty Series*, II, No. 548, Vol. 281).

Authorization to the International Atomic Energy Agency to request advisory opinions of the International Court of Justice: resolution 1146 (XII) of the General Assembly of the United Nations, 14 November 1957.

Agreement on the privileges and immunities of the International Atomic Energy Agency, approved by the Board of Governors of the Agency on 1 July 1959, Article X, Section 34 (United Nations, *Treaty Series*, I, No. 5334, Vol. 374).

Agreement between the International Atomic Energy Agency and Iraq, Lebanon, Libya, Tunisia, United Arab Republic, etc., for the establishment in Cairo of a Middle Eastern regional radio-isotope centre for the Arab countries, approved by the Board of Governors of the Agency on 14 September 1962, Article XVI (United Nations, *Treaty Series*, I, No. 7236, Vol. 494).

Nordic Mutual Emergency Assistance Agreement in connection with radiation accidents, signed on 17 October 1963 by the International Atomic Energy Agency, Denmark, Finland, Norway and Sweden, Article IX (United Nations, *Treaty Series*, I, No. 7585, Vol. 525).

II. DECLARATIONS RECOGNIZING AS COMPULSORY THE JURISDICTION OF THE COURT

The texts of declarations under Article 36, paragraph 2, of the Statute, which had not expired by effluxion of time, or whose withdrawal or replacement had not been notified by 31 July 1999 will be found below. The fact that a declaration is or is not included in this section, is without prejudice to its possible application by the Court in a particular case.

The declarations of Guinea and Yugoslavia were deposited with the Secretary-General of the United Nations during the 12 months under review, on 4 December 1998 and 26 April 1999 respectively. They were the first such declarations made by those States.

In view of the provisions of Article 36, paragraph 5, of the Statute of the International Court of Justice, the present section also contains the texts of declarations made under the Statute of the *Permanent Court of International Justice* which have not lapsed or been withdrawn. There are now seven such declarations.

The declarations, deposited by a total of 62 States[1], are given here in English[2]. Where this is not the original language of the declaration, the translations used, except where otherwise indicated, are by the Secretariat of the United Nations or of the League of Nations.

The date shown after the name of the State is that on which the declaration was deposited.

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[1] Since 1951, twelve other declarations relating to the jurisdiction of the International Court of Justice, either expressly or by virtue of Article 36, paragraph 5, of the Statute, have expired, been withdrawn or been terminated without being subsequently replaced. These were the declarations of the following States: Bolivia, Brazil, China, El Salvador, France, Guatemala, Iran, Israel, South Africa, Thailand, Turkey and the United States (United Nations, *Treaty Series*, I, No. 261, Vol. 16; I, No. 237, Vol. 15; I, No. 5, Vol. 1; *I.C.J. Yearbook 1987-1988*, pp. 70-72; United Nations, *Treaty Series*, I, No. 8196, Vol. 562; I, No. 12, Vol. 1; *I.C.J. Yearbook 1946-1947*, p. 211; *I.C.J. Yearbook 1984-1985*, pp. 79-80; United Nations, *Treaty Series*, I, No. 2935, Vol. 216; I, No. 844, Vol. 65; I, No. 50, Vol. 4; *I.C.J. Yearbook 1984-1985*, pp. 99-100).

[2] French texts of the declarations are given in the French counterpart of the *I.C.J. Yearbook*, the *C.I.J. Annuaire*.

AUSTRALIA

17 III 75

Whereas on the first day of November one thousand nine hundred and forty-five Australia ratified the Charter of the United Nations of which the Statute of the International Court of Justice is an integral part; and

Whereas Australia made a declaration under paragraph 2 of Article 36, of the said Statute on the sixth day of February, one thousand nine hundred and fifty-four[1]; and

Whereas Australia desires to withdraw the said declaration:

The Government of Australia hereby withdraws the said declaration and declares for and on behalf of Australia that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to withdraw this declaration.

The Government of Australia further declares that this declaration does not apply to any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement.

In witness whereof, I, Edward Gough Whitlam, Prime Minister acting for and on behalf of the Minister of State for Foreign Affairs of Australia, have hereunto set my hand and affixed the seal of the Minister of State for Foreign Affairs.

Dated this thirteenth day of March, one thousand nine hundred and seventy-five.

(*Signed*) E. G. WHITLAM,
Prime Minister acting for and on
behalf of the Minister of State for
Foreign Affairs of Australia.

AUSTRIA

19 V 71

I hereby declare that the Republic of Austria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute in respect of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

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[1] United Nations, *Treaty Series*, I, No. 2484, Vol. 186.

This Declaration shall remain in force for a period of five years and thereafter until it will be terminated or modified by a written declaration.

Done at Vienna on 28 April 1971.

(*Signed*) JONAS,
The Federal President.

In witness whereof the present declaration has been countersigned by the Federal Chancellor and the Minister for Foreign Affairs and the national seal of the Republic of Austria has been affixed thereto.

(*Signed*) Bruno KREISKY,
The Federal Chancellor.
(*Signed*) Rudolf KIRCHSCHLAEGER,
The Federal Minister for Foreign Affairs.

BARBADOS

1 VIII 80

I have the honour to declare on behalf of the Government of Barbados that:

The Government of Barbados accepts as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court until such time as notice might be given to terminate the acceptance, over all disputes arising after the declaration is made, other than:

(*a*) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement;
(*b*) disputes with the government of any other country which is a Member of the Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;
(*c*) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Barbados;
(*d*) disputes arising out of or concerning jurisdiction or rights claimed or exercised by Barbados in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Barbados.

24 July 1980.

(*Signed*) H. de B. FORDE,
Minister of External Affairs.

BELGIUM[1]

(Translation from the French) 17 VI 58

I declare on behalf of the Belgian Government that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in legal disputes arising after 13 July 1948 concerning situations or facts subsequent to that date, except those in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement.

This declaration is made subject to ratification[2]. It shall take effect on the day of deposit of the instrument of ratification for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Brussels, 3 April 1958.

(*Signed*) V. LAROCK,
Minister
for Foreign Affairs.

BOTSWANA

16 III 70

I, Sir Seretse Khama, President of the Republic of Botswana, have the honour to declare on behalf of the Government of the Republic of Botswana, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or
(b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Republic of Botswana.

The Government of the Republic of Botswana also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

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[1] Belgium had deposited in 1948 a declaration [illegible] (United Nations Treaty Series, I, No. 295, Vol. 19).

[2] The instrument of ratification was deposited on 17 June 1958.

Done at Gaborone this 14th day of January in the year of our Lord one thousand nine hundred and seventy.

(*Signed*) Seretse M. KHAMA,
President.

BULGARIA

[*Translation from the Bulgarian*] 24 VI 1992.

On behalf of the Government of the Republic of Bulgaria, I have the honour to declare that in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice the Republic of Bulgaria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes arising out of facts and situations subsequent to or continuing to exist after the entry into force of the present Declaration, concerning:

1. the interpretation of a treaty;
2. any question of international law;
3. the existence of any fact which, if established, would constitute a breach of an international obligation;
4. the nature or extent of the reparation to be made for the breach of an international obligation,

except for disputes with any State which has accepted the compulsory jurisdiction of the International Court of Justice under Article 36, paragraph 2, of the Statute less than twelve months prior to filing an application bringing the dispute before the Court or where such acceptance has been made only for the purpose of a particular dispute.

The Republic of Bulgaria also reserves the right at any time to modify the present Declaration, the modifications taking effect six months after the deposit of the notification thereof.

The present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations. It shall continue in force thereafter until six months after a notice of its denunciation is given to the Secretary-General of the United Nations.

Sofia, 26 May 1992.

(*Signed*) S. GANEV,
Minister of Foreign Affairs
of the Republic of Bulgaria.

CAMBODIA

[Translation from the French] 19 IX 57.

On behalf of the Royal Government of Cambodia I have the honour to declare that, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State Member of the United Nations accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the said Court in all legal disputes, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(2) disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Kingdom of Cambodia;

(3) disputes relating to any matter excluded from judicial settlement or compulsory arbitration by virtue of any treaty, convention or other international agreement or instrument to which the Kingdom of Cambodia is a party.

This declaration is valid for ten years from the date of its deposit. It shall remain in force thereafter until notice to the contrary has been given by the Royal Government of Cambodia.

Phnom-Penh, 9 September 1957.

(*Signed*) SIM VAR.

CAMEROON

[Translation from the French by the Registry] 3 III 94.

On behalf of the Government of the Republic of Cameroon, I have the honour to declare that:

The Government of the Republic of Cameroon, in accordance with Article 36, paragraph 2, of the Statute of the Court, recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes.

This declaration shall remain in force for a period of five years. It shall subsequently continue to produce effect until contrary notification or written amendment by the Government of the Republic of Cameroon.

(*Signed*) Ferdinand Léopold OYONO,
Minister for Foreign Affairs.

CANADA

10 V 94.

On behalf of the Government of Canada,

(1) I give notice that I hereby terminate the acceptance by Canada of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 10 September 1985[1] in conformity with paragraph 2 of Article 36 of the Statute of the Court.

(2) I declare that the Government of Canada accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:

(*a*) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(*b*) disputes with the Government of any other country which is a member of the Commonwealth, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

(*c*) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Canada; and

(*d*) disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures.

(3) The Government of Canada also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

It is requested that this notification be communicated to the Governments of all the States that have accepted the Optional Clause and to the Registrar of the International Court of Justice.

New York, 10 May 1994.

(*Signed*) Louise FRÉCHETTE,
Ambassador and
Permanent Representative.

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[1] *I.C.J. Yearbook 1992-1993*, pp. 79-80.

COLOMBIA[1]

[Translation from the French] 30 X 37.

The Republic of Colombia recognizes as compulsory, *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the Permanent Court of International Justice, in accordance with Article 36 of the Statute.

The present declaration applies only to disputes arising out of facts subsequent to 6 January 1932.

Geneva, 30 October 1937.

(*Signed*) J. M. YEPES,
Legal Adviser of the Permanent Delegation
of Colombia to the League of Nations.

COSTA RICA

[Translation from the Spanish] 20 II 73.

The Government of Costa Rica recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes of the kinds referred to in Article 36, paragraph 2, of the Statute of the International Court of Justice. This Declaration shall be valid for a period of five years and shall be understood to be tacitly renewed for like periods, unless denounced before the expiration of the said period.

San José, 5 February 1973.

(*Signed*) Gonzalo J. FACIO,
Minister for Foreign Affairs.

CYPRUS

29 IV 88.

I have the honour on behalf of the Government of the Republic of Cyprus to declare, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, that the Republic of Cyprus accepts as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the Court, in relation to any other State accepting the same obligation, over all legal disputes concerning:

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[1] An instrument of ratification was deposited on 30 October 1937. Ratification was not required under the terms of the Optional Clause, the act of signature itself sufficing to make the undertaking binding, except where the declaration has been made expressly subject to ratification. Nevertheless, certain States, which had signed without any such reservation, subsequently ratified their declarations.

(*a*) the interpretation of any treaty

  I. to which the Republic of Cyprus became a Party on or after 16 August 1960 or
  II. which the Republic of Cyprus recognizes as binding on it by succession;

(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

Provided that this declaration shall not apply:

(*a*) to disputes relating to questions which fall within the domestic jurisdiction of the Republic of Cyprus;
(*b*) where the declaration recognizing the compulsory jurisdiction of the International Court of Justice on behalf of any other Party to the dispute was deposited with the Secretary-General of the United Nations less than six months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Cyprus reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw this declaration or any of the foregoing reservations or any that may hereafter be added.

Nicosia, 19 April 1988.

(*Signed*) George IACOVOU,
Minister of Foreign Affairs.

DEMOCRATIC REPUBLIC OF THE CONGO

[*Translation from the French*] 8 II 89.

. . . in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Executive Council of the Republic of Zaire recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;

(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

It is understood further that this declaration will remain in force until notice of its revocation is given.

(*Signed*) Bagbeni Adeito NZENGEYA,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Zaire
to the United Nations.

DENMARK[1]

[*Translation from the French*] 10 XII 56.

In conformity with the Royal Decree of 3 December 1956, I have the honour, on behalf of the Danish Government, to make the following declaration:

Pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, the Kingdom of Denmark recognizes as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, for a period of five years from 10 December 1956 and thereafter for further periods of five years, if this declaration is not denounced by notice of not less than six months before the expiration of any five-year period.

New York, 10 December 1956.

(*Signed*) Karl I. ESKELUND,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative
to the United Nations.

DOMINICAN REPUBLIC

[*Translation from the French*] 30 IX 24.

On behalf of the Government of the Dominican Republic and subject to ratification[2], I recognize, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Geneva, 30 September 1924.

(*Signed*) Jacinto R. DE CASTRO.

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[1] This declaration replaced that of 10 December 1946, which had been made for a period of ten years as from that date (United Nations, *Treaty Series*, I, No. 10, Vol. 1).

[2] The instrument of ratification was deposited on 4 February 1933.

EGYPT

22 VII 57.

I, Mahmoud Fawzi, Minister for Foreign Affairs of the Republic of Egypt, declare on behalf of the Government of the Republic of Egypt, that, in accordance with Article 36 (2) of the Statute of the International Court of Justice and in pursuance and for the purposes of paragraph 9 *(b)* of the Declaration of the Government of the Republic of Egypt dated 24 April 1957, on "the Suez Canal and the arrangements for its operation"[1], the Government of the Republic of Egypt accept as compulsory *ipso facto*, on condition of reciprocity and without special agreement, the jurisdiction of the International Court of Justice in all legal disputes that may arise under the said paragraph 9 *(b)* of the above Declaration dated 24 April 1957, with effect as from that date.

18 July 1957.

(Signed) Mahmoud FAWZI.

ESTONIA

21 X 91.

I, Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, declare on behalf of the Republic of Estonia and in accordance with the Resolution of September 26, 1991 of the Supreme Council of the Republic of Estonia, that the Republic of Estonia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court,

provided that this declaration shall not apply to disputes, the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Tallinn, 10 October 1991.

(Signed) A. RÜÜTEL,
Chairman of the Supreme Council.

FINLAND

[Translation from the French] 25 VI 58.

On behalf of the Finnish Government, I hereby declare that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, for a period of five years from 25 June 1958. This declaration shall be renewed by tacit agreement for further periods of the same duration, unless it is denounced not later than six months before the expiry of any such period. This declaration shall apply only to disputes arising in regard to situations or facts subsequent to 25 June 1958.

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[1] United Nations, *Treaty Series*, I, No. 3821, Vol. 265.

New York, 25 June 1958.

(*Signed*) G. A. GRIPENBERG,
Permanent Representative of Finland
to the United Nations.

GAMBIA

22 VI 66.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare, on behalf of the Government of the Gambia, that the Gambia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice until such time as notice may be given to terminate the acceptance, over all disputes arising in the future concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

with the reservation, however, that this declaration does not apply to

(*a*) disputes in regard to which the parties have agreed to a settlement other than by recourse to the International Court of Justice;
(*b*) disputes with any country in the Commonwealth;
(*c*) disputes which, by international law, fall exclusively within the jurisdiction of the Gambia.

Bathurst, 14 June 1966.

(*Signed*) A. B. N'JIE,
Minister of State for External Affairs.

GEORGIA

20 VI 95.

I have the honour on behalf of the Republic of Georgia to declare that, in accordance with paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Republic of Georgia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

Tbilisi, 16 June 1995.

(*Signed*) Alexander CHIKVAIDZE,
Minister of Foreign Affairs
of the Republic of Georgia.

GREECE

[*Translation from the French*] 10 I 94

I declare, on behalf of the Greek Government, that I recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in Article 36, paragraph 2, of the Statute of the Court. However, the Greek Government excludes from the competence of the Court any dispute relating to defensive military action taken by the Hellenic Republic for reasons of national defence.

This declaration shall remain in force for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Athens, 20 December 1993.

(*Signed*) Karolos PAPOULIAS,
Minister for Foreign Affairs.

GUINEA

[*Unofficial translation from the French by the Registry*] 4 XII 98.

I have the honour, in the name of the Government of the Republic of Guinea, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, the said Government accepts as compulsory *ipso facto* and without special agreement, in relation to any other States accepting the same obligation, the jurisdiction of the Court in all legal disputes arising since 12 December 1958 and subsequent to this declaration concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

The Republic of Guinea makes this declaration on condition of reciprocity on the part of all States. However, it may refuse to accept the jurisdiction of the Court in the case of:

(*a*) disputes in respect of which the parties have agreed to have recourse to some other mode of settlement;
(*b*) disputes concerning questions which, under international law, fall within the exclusive jurisdiction of the Republic of Guinea.

Finally, the Government of the Republic of Guinea reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to amend or withdraw this declaration.

Conakry, 11 November 1998.

(*Signed*) Lamine KAMARA,
Minister for Foreign Affairs.

GUINEA-BISSAU

[Translation from the French] 7 VIII 89

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Republic of Guinea-Bissau accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in Article 36, paragraph 2, of the Statute thereof.

This declaration will remain in force until six months following the date on which the Government of Guinea-Bissau makes known its intention of terminating it.

New York, 7 August 1989.

(*Signed*) Raul A. DE MELO CABRAL,
Chargé d'affaires a.i.

HAITI

[Translation from the French] 4 X 21

On behalf of the Republic of Haiti, I recognize the jurisdiction of the Permanent Court of International Justice as compulsory.

(*Signed*) F. ADDOR,
Consul.

HONDURAS

[Translation from the Spanish] 6 VI 86

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the Declaration made on 20 February 1960 concerning Article 36, paragraph 2, of the Statute of the International Court of Justice, *hereby declares* that it modifies the Declaration made by it on 20 February 1960[1] as follows:

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[1] *I.C.J. Yearbook 1984-1985*, pp. 78-79.

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

   (*a*) the interpretation of a treaty;
   (*b*) any question of international law;
   (*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
   (*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

2. This Declaration shall not apply, however, to the following disputes to which the Republic of Honduras may be a party:

   (*a*) disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;
   (*b*) disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;
   (*c*) disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;
   (*d*) disputes referring to:

      (i) territorial questions with regard to sovereignty over islands, shoals and keys; internal waters, bays, the territorial sea and the legal status and limits thereof;
      (ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;
      (iii) the airspace over the territories, waters and zones referred to in this subparagraph.

3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.
4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(*Signed*) José AZCONA H.,
President of the Republic.

(*Signed*) Carlos LÓPEZ CONTRERAS,
The Secretary of State for Foreign Affairs.

Hungary

22 X 92.

The Republic of Hungary hereby recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court in all disputes which may arise in respect of facts or situations subsequent to this declaration, other than:

(*a*) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(*b*) disputes in regard to matters which by international law fall exclusively within the domestic jurisdiction of the Republic of Hungary;

(*c*) disputes relating to, or connected with, facts or situations of hostilities, war, armed conflicts, individual or collective actions taken in self-defence or the discharge of any functions pursuant to any resolution or recommendation of the United Nations, and other similar or related acts, measures or situations in which the Republic of Hungary is, has been or may in the future be involved;

(*d*) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Hungary reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect of six months of such notification to amend, add to or withdraw any of the foregoing reservations or any that may hereafter be added.

This declaration shall remain in force until the expiration of six months after notification has been given of its termination.

Budapest, 7 October 1992.

(*Signed*) Dr. Géza Jeszenszky,
Minister for Foreign Affairs
of the Republic of Hungary.

India

18 IX 74.

I have the honour to declare, on behalf of the Government of the Republic of India, that they accept, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction of the International Court of Justice over all disputes other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;
(2) disputes with the government of any State which is or has been a Member of the Commonwealth of Nations;
(3) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of India;
(4) disputes relating to or connected with facts or situations of hostilities, armed conflicts, individual or collective actions taken in self-defence, resistance to aggression, fulfilment of obligations imposed by international bodies, and other similar or related acts, measures or situations in which India is, has been or may in future be involved;
(5) disputes with regard to which any other party to a dispute has accepted the compulsory jurisdiction of the International Court of Justice exclusively for or in relation to the purposes of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of a party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court;
(6) disputes where the jurisdiction of the Court is or may be founded on the basis of a treaty concluded under the auspices of the League of Nations, unless the Government of India specially agree to jurisdiction in each case;
(7) disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court or Government of India specially agree to jurisdiction;
(8) disputes with the government of any State with which, on the date of an application to bring a dispute before the Court, the Government of India has no diplomatic relations or which has not been recognized by the Government of India;
(9) disputes with non-sovereign States or territories;
(10) disputes with India concerning or relating to:

  (*a*) the status of its territory or the modification or delimitation of its frontiers or any other matter concerning boundaries;
  (*b*) the territorial sea, the continental shelf and the margins, the exclusive fishery zone, the exclusive economic zone, and other zones of national maritime jurisdiction including for the regulation and control of marine pollution and the conduct of scientific research by foreign vessels;
  (*c*) the condition and status of its islands, bays and gulfs and that of the bays and gulfs that for historical reasons belong to it;

  (*d*) the airspace superjacent to its land and maritime territory; and
  (*e*) the determination and delimitation of its maritime boundaries.

(ii) disputes prior to the date of this declaration, including any dispute the foundations, reasons, facts, causes, origins, definitions, allegations or bases of which existed prior to this date, even if they are submitted or brought to the knowledge of the Court hereafter.

2. This declaration revokes and replaces the previous declaration made by the Government of India on 14 September 1959[1].

New Delhi, 15 September 1974.

(*Signed*) Swaran SINGH,
Minister for External Affairs.

Japan

15 IX 58.

I have the honour, by direction of the Minister for Foreign Affairs, to declare on behalf of the Government of Japan, that in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, Japan recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice, over all disputes which arise on and after the date of the present declaration with regard to situations or facts subsequent to the same date and which are not settled by other means of peaceful settlement.

This declaration does not apply to disputes which the parties thereto have agreed or shall agree to refer for final and binding decision to arbitration or judicial settlement.

This declaration shall remain in force for a period of five years and thereafter until it may be terminated by a written notice.

New York, 15 September 1958.

(*Signed*) Koto MATSUDAIRA,
Permanent Representative of Japan
to the United Nations.

Kenya

19 IV 65.

I have the honour to declare, on behalf of the Government of the Republic of Kenya that it accepts, in conformity with paragraph 2 of

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[1] United Nations, *Treaty Series*, I, No. 4871, Vol. 340.

Article 36 of the Statute of the International Court of Justice until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction over all disputes arising after 12 December 1963 with regard to situations or facts subsequent to that date, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;
(2) dispute with the government of any State which, on the date of this Declaration is a Member of the Commonwealth of Nations or may so become subsequently;
(3) disputes with regard to questions which by general rules of international law fall exclusively within the jurisdiction of Kenya;
(4) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of the Republic of Kenya have accepted obligations.

The Government of the Republic of Kenya reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations to add to, amend, or withdraw any of the foregoing reservations. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Nairobi, 12 April 1965.

(*Signed*) Joseph MURUMBI,
Minister for External Affairs.

LIBERIA

20 III 52.

On behalf of the Government of the Republic of Liberia, I, Gabriel L. Dennis, Secretary of State of Liberia, subject to ratification, declare that the Republic of Liberia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State, also a party to the Statute pursuant to Article 93 of the United Nations Charter, which accepts the same obligation (*i.e.*, subject to reciprocity), the jurisdiction of the International Court of Justice in all legal disputes arising after ratification concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration does not apply:

(a) to any dispute which the Republic of Liberia considers essentially within its domestic jurisdiction;
(b) to any dispute in regard to which the parties have agreed or may agree to bring before other tribunals as a result of agreements already existing or which may be made in the future.

The present declaration has been made for a period of five years as from the date of deposit of the ratification[1] and thereafter until notice of termination is given.

Done at Monrovia this 3rd day of March 1952.

(Signed) Gabriel L. Dennis,
Secretary of State.

LIECHTENSTEIN

(Translation from the French) 29 III 50

The Government of the Principality of Liechtenstein, duly authorized by His Serene Highness, the Reigning Prince Franz Joseph II, in accordance with the Order of the Diet of the Principality of Liechtenstein dated 9 March 1950, which came into force on 10 March 1950,

declares by these presents that the Principality of Liechtenstein recognizes as compulsory ipso facto and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Principality becomes a party to the Statute[2] and shall have effect as long as the declaration has not been revoked subject to one year's notice.

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[1] The instrument of ratification, dated 28 March 1952, was deposited on [illegible] April 1952.

[2] Liechtenstein became a party to the Statute of the Court on 29 March 1950.

Done at Vaduz, 10 March 1950.

On behalf of the Government of
the Principality of Liechtenstein,
(*Signed*) A. FRICK,
The Head of Government.

LUXEMBOURG[1]

[*Translation from the French*] 15 IX 30.

The Government of the Grand-Duchy of Luxembourg recognizes as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present declaration is made for a period of five years. Unless it is denounced six months before the expiration of that period, it shall be considered as renewed for a further period of five years and similarly thereafter.

Geneva, 15 September 1930.

(*Signed*) BECH.

MADAGASCAR

[*Translation from the French*] 2 VII 92.

On behalf of the Government of Madagascar, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that Madagascar accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and until such time as notice may be given to terminate this acceptance, the compulsory jurisdiction of the Court in all legal disputes concerning:

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[1] The Government of Luxembourg had in 1921 signed the Optional Clause subject to ratification. That declaration was, however, never ratified.

the interpretation of a treaty;
any question of international law;
the existence of any fact which, if established, would constitute a breach of an international obligation;
the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration does not apply:

to disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
disputes relating to questions which, under international law, fall exclusively within the jurisdiction of Madagascar.

The Government of Madagascar also reserves the right to add to, amend or withdraw the foregoing reservations by means of a notification addressed to the Secretary-General of the United Nations, which would take effect on the date of its receipt by the Secretary-General.

Antananarivo, 12 May 1992.

(*Signed*) Césaire RABENORO,
Minister for Foreign Affairs.

MALAWI

12 XII 66.

On behalf of the Government of Malawi, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes which may arise in respect of facts or situations subsequent to this declaration concerning

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation:

Provided that this declaration shall not apply to

(i) disputes with regard to matters which are essentially within the domestic jurisdiction of the Republic of Malawi as determined by the Government of Malawi;
(ii) disputes in regard to which the parties of the dispute have agreed or

shall agree to have recourse to some other method of peaceful settlement; or

(iii) disputes concerning any question relating to or arising out of belligerent or military occupation.

The Government of Malawi also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend, or withdraw any of the foregoing reservations or any that may hereafter be added. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Given under my hand in Zomba this 22nd day of November 1966.

(*Signed*) H. KAMUZU BANDA,
President and
Minister for External Affairs.

MALTA[1]

6 XII 66.

I have the honour to declare, on behalf of the Government of Malta, that Malta accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes with the government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree;

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;

(v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;

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[1] By letter of 13 May 1983 to the Secretary-General of the United Nations, the Minister for Foreign Affairs notified the withdrawal, with immediate effect, of a declaration concerning a particular category of disputes which was filed on 23 January 1981 and which is reproduced in *I.C.J. Yearbook 1981-1982*, p. 78.

(vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a Party;

(vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Valletta, 29 November 1966.

(*Signed*) G. Felice,
Acting Minister of Commonwealth
and Foreign Affairs.

2 IX 83.

I have the honour to refer to the declaration made by the Government of Malta on 29 November 1966, and notified on 6 December 1966, concerning the compulsory jurisdiction of the International Court of Justice and to give notice that, with effect from the moment this notification is received by Your Excellency, the acceptance of the Government of Malta of the jurisdiction of the Court shall be limited to all disputes with Malta other than

(1) the disputes mentioned in paragraphs (i) to (viii) both inclusive, of the said declaration, and

(2) the following categories of disputes, that is to say:

Disputes with Malta concerning or relating to:

(*a*) its territory, including the territorial sea, and the status thereof;
(*b*) the continental shelf or any other zone of maritime jurisdiction, and the resources thereof;
(*c*) the determination or delimitation of any of the above;
(*d*) the prevention or control of pollution or contamination of the

marine environment in marine areas adjacent to the coast of Malta."

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

(*Signed*) Alex SCEBERAS TRIGONA,
Minister for Foreign Affairs.

MAURITIUS

23 IX 68.

I have the honour to declare, on behalf of the Government of Mauritius, that Mauritius accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Mauritius;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Mauritius has accepted obligations;

(v) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Mauritius is a party;

(vi) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(vii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Mauritius also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Port Louis, 4 September 1968.

(*Signed*) S. RAMGOOLAM,
Prime Minister and
Minister for External Affairs.

Mexico

[*Translation from the Spanish*] 28 X 47.

In regard to any legal dispute that may in future arise between the United States of Mexico and any other State out of events subsequent to the date of this Declaration, the Mexican Government recognizes as compulsory *ipso facto*, and without any special agreement being required therefor, the jurisdiction of the International Court of Justice in accordance with Article 36, paragraph 2, of the Statute of the said Court, in relation to any other State accepting the same obligation, that is, on condition of strict reciprocity. This Declaration, which does not apply to disputes arising from matters that, in the opinion of the Mexican Government, are within the domestic jurisdiction of the United States of Mexico, shall be binding for a period of five years as from 1 March 1947 and after that date shall continue in force until six months after the Mexican Government gives notice of denunciation.

Mexico, D.F., 23 October 1947.

(*Signed*) Jaime TORRES BODET,
Secretary of State for External Relations.

Nauru

9 IX 92.

On behalf of the Government of the Republic of Nauru, I have the honour to refer to the Republic's Declaration dated 30 December 1987[1], deposited with the United Nations Secretary-General on 29 January 1988, whereby the Republic has accepted as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, and stipulated that the acceptance of the Court's jurisdiction shall extend to all disputes to which the Republic is or may be a party, other than any dispute with respect to which there exists a dispute settlement mechanism under an agreement between the Republic of Nauru and another State.

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[1] *I.C.J. Yearbook 1987-1988*, p. 84.

I have the further honour to declare that the aforesaid Declaration shall stand renewed and extended on 29 January 1993 and continue to be in force for a further period of five years from that date.

In witness whereof, I set my hand and the Common Seal of the Republic of Nauru, this fourth day of the month of September one thousand nine hundred and ninety-two.

(*Signed*) Hammer DEROBURT,
President
and Minister for External Affairs,
Republic of Nauru.

NETHERLANDS

[*Translation from the French*] 1 VIII 56.

I hereby declare that the Government of the Kingdom of the Netherlands recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from 6 August 1956, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of said Court in all disputes arising or which may arise after 5 August 1921, with the exception of disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, may have agreed to have recourse to some other method of pacific settlement.

The aforesaid obligation is accepted for a period of five years and will be renewed by tacit agreement for additional periods of five years, unless notice is given, not less than six months before the expiry of any such period, that the Government of the Kingdom of the Netherlands does not wish to renew it.

The acceptance of the jurisdiction of the Court founded on the declaration of 5 August 1946[1] is terminated with effect from 6 August 1956.

New York, 1 August 1956.

(*Signed*) E. L. C. SCHIFF,
Acting Permanent Representative of the
Kingdom of the Netherlands to the United Nations.

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[1] United Nations, *Treaty Series*, I, No. 2, Vol. 1

New Zealand

22 IX 77.

I have the honour, by direction of the Minister of Foreign Affairs of New Zealand, to declare on behalf of the Government of New Zealand:

(I) The acceptance by the Government of New Zealand of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 1 April 1940[1] under Article 36 of the Statute of the Permanent Court of International Justice and made applicable to the International Court of Justice by paragraph 5 of Article 36 of the Statute of that Court, is hereby terminated.

(II) The Government of New Zealand accept as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court over all disputes other than:

(1) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(2) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;

(3) disputes arising out of, or concerning, the jurisdiction or rights claimed or exercised by New Zealand in respect of the exploration, exploitation, conservation or management of the living resources in marine areas beyond and adjacent to the territorial sea of New Zealand but within 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

This Declaration shall remain in force for a period of five years from 22 September 1977 and thereafter until the expiration of six months after notice has been given of the termination of this Declaration provided that the Government of New Zealand reserves the right at any time to amend this Declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 22 September 1977.

(*Signed*) M. J. C. Templeton,
Permanent Representative of
New Zealand to the United Nations.

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[1] *I.C.J. Yearbook 1976-1977*, pp. 69 f.

NICARAGUA[1]

[Translation from the French] 24 IX 29.

On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.

Geneva, 24 September 1929.

(Signed) T. F. MEDINA.

NIGERIA

30 IV 98.

I have the honour, on behalf of the Government of the Federal Republic of Nigeria, to declare that the acceptance by the Government of the Federal Republic of Nigeria of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 14 August 1965 under Article 36 of the Statute of the Court is hereby amended so as to read as set out in the following paragraph:

In conformity with paragraph 2 of Article 36 of the Statute, the Government of the Federal Republic of Nigeria accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court over all legal disputes referred to in that paragraph of the Statute, other than:

(i) disputes in respect of which any party to the dispute has accepted the jurisdiction of the Court by a Declaration deposited less than twelve months prior to the filing of an Application bringing the dispute before the Court after the date of this amended Declaration;

(ii) disputes in respect of which any party has filed an Application in substitution for or in lieu of all or any part of any Application to which subparagraph (i) refers;

(iii) disputes relating to matters which are essentially within the domestic jurisdiction of the Federal Republic of Nigeria;

(iv) disputes in respect of which any other party to the dispute has accepted the jurisdiction of the Court in relation to or for the purposes of the dispute;

(v) disputes in regard to which the parties have agreed or agree to have recourse to any other method of peaceful settlement;

(vi) disputes relating to or connected with facts or situations of hostilities or armed conflict, whether internal or international in character;

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[1] See the Court's Judgment of 26 November 1984 (*I.C.J. Reports 1984*, p. 392).

(vii) disputes with any State with which the Government of Nigeria does not have diplomatic relations;

(viii) disputes concerning the allocation, delimitation or demarcation of territory (whether land, maritime, lacustrine or superjacent air space) unless the Government of Nigeria specially agrees to such jurisdiction and within the limits of any such special agreement;

(ix) disputes in relation to matters which arose prior to the date of Nigeria's independence, including any dispute the causes, origins or bases of which arose prior to that date.

The Government of the Federal Republic of Nigeria further reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, to add to, amend or withdraw this Declaration or the reservations contained therein or any that may hereafter be added.

Done at Abuja, this 29th day of April 1998.

(*Signed*) Chief Tom IKIMI,
Hon. Minister of Foreign Affairs,
Federal Republic of Nigeria.

NORWAY[1]

25 VI 96.

I hereby declare on behalf of the Royal Norwegian Government that Norway recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years as from 3 October 1976. This declaration shall thereafter be tacitly renewed for additional periods of five years, unless notice of termination is given not less than six months before the expiration of the current period; provided, however, that the limitations and exceptions relating to the settlement of disputes pursuant to the provisions of, and the Norwegian declarations applicable at any given time to, the United Nations Convention on the Law of the Sea of 10 December 1982 and the Agreement of 4 December 1995 for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, shall apply to all disputes concerning the law of the sea.

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[1] This is the text of the declaration as amended by letter of 24 June 1996 received by the Secretary-General of the United Nations on the following day. The first paragraph of that letter read as follows:

> "On behalf of the Government of Norway,
>
> I give notice that I hereby amend the acceptance by Norway of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 2 April 1976 in conformity with paragraph 2 of Article 36 of the Statute of the Court. As amended, the declaration shall read . . ."

The declaration of 1976 replaced that of 17 December 1956 (United Nations, *Treaty Series*, I, No. 3642, Vol. 256).

New York, 24 June 1996.

(*Signed*) Hans Jacob Biorn LIAN,
Permanent Representative of
Norway to the United Nations.

PAKISTAN[1]

13 IX 60.

I have the honour, by direction of the President of Pakistan, to make the following declaration on behalf of the Government of Pakistan under Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Government of Pakistan recognize as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes after 24 June 1948, arising, concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that the declaration shall not apply to:

(*a*) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or
(*b*) disputes relating to questions which by international law fall exclusively within the domestic jurisdiction of Pakistan;
(*c*) disputes arising under a multilateral treaty unless

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[1] This declaration replaced that of 23 May 1957 (United Nations, *Treaty Series*, I, No. 3875, Vol. 269) notice of the withdrawal and termination of which was given by letter of 12 September 1960 received on the following day by the Secretary-General of the United Nations.

(i) all parties to the treaty affected by the decision are also parties to the case before the Court, or

(ii) the Government of Pakistan specially agree to jurisdiction, and

provided further, that this Declaration shall remain in force till such time as notice may be given to terminate it.

New York, 12 September 1960.

(Signed) Said HASAN,

Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Pakistan to the
United Nations.

PANAMA[1]

[Translation from the French] 25 X 21.

On behalf of the Government of Panama, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention.

Paris, 25 October 1921.

(Signed) R. A. AMADOR,
Chargé d'affaires.

PARAGUAY

[Translation from the Spanish] 25 IX 96.

Whereas the Republic of Paraguay signed the Charter of the United Nations on 26 June 1945 in San Francisco and ratified it on 12 October of that year,

Having seen and examined the text of the Statute of the International Court of Justice, principal judicial organ of the United Nations, whose Article 36, paragraph 2, stipulates that States parties to the Statute may declare at any time and without special agreement that they recognize as compulsory the jurisdiction of the Court,

And whereas the National Congress agreed to recognize this by means of Act No. 913 of 7 August 1996,

Therefore:

I hereby accept on behalf of the Government of Paraguay the compulsory jurisdiction of the International Court of Justice, with headquarters at The Hague, reciprocally in relation to other States accepting the same obligation in respect of all disputes as provided for in Article 36, paragraph 2, of the Statute of the Court. The present declaration shall apply only to disputes arising subsequent to the date of this declaration.

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[1] An instrument of ratification was deposited on 14 June 1929. Cf. the footnote to Colombia, p. 95, above.

In witness whereof I hereby sign this declaration, which is sealed with the national Seal and countersigned by the Minister for Foreign Affairs, Ruben Melgarejo Lanzoni, in the city of Asunción, capital of the Republic of Paraguay, on 17 September 1996.

(*Signed*) Juan Carlos WASMOSY,
President.

(*Signed*) Rubén MELGAREJO LANZONI,
Minister for Foreign Affairs.

PHILIPPINES[1]

18 I 72.

I, Carlos P. Romulo, Secretary of Foreign Affairs of the Republic of the Philippines, hereby declare, under Article 36, paragraph 2, of the Statute of the International Court of Justice, that the Republic of the Philippines recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes arising hereafter concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to any dispute:

(*a*) in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement; or
(*b*) which the Republic of the Philippines considers to be essentially within its domestic jurisdiction; or
(*c*) in respect of which the other party has accepted the compulsory jurisdiction of the International Court of Justice only in relation to

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[1] This declaration replaced that of 12 July 1947 (United Nations, *Treaty Series*, I, No. 101, Vol. 7).

or for the purposes of such dispute; or where the acceptance of the compulsory jurisdiction was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court; or

(*d*) arising under a multilateral treaty, unless (1) all parties to the treaty are also parties to the case before the Court, or (2) the Republic of the Philippines specially agrees to jurisdiction; or

(*e*) arising out of or concerning jurisdiction or rights claimed or exercised by the Philippines

  (i) in respect of the natural resources, including living organisms belonging to sedentary species, of the sea-bed and subsoil of the continental shelf of the Philippines, or its analogue in an archipelago, as described in Proclamation No. 370 dated 20 March 1968 of the President of the Republic of the Philippines; or

  (ii) in respect of the territory of the Republic of the Philippines, including its territorial seas and inland waters; and

Provided, further, that this declaration shall remain in force until notice is given to the Secretary-General of the United Nations of its termination.

Done at Manila this 23rd day of December 1971.

(*Signed*) Carlos P. ROMULO,
Secretary of Foreign Affairs.

POLAND

25 III 96.

On behalf of the Government of the Republic of Poland I hereby declare that the Republic of Poland withdraws its consent to the compulsory jurisdiction of the International Court of Justice communicated on 25 September 1990[1] in light of Article 36, paragraph 2, of the Statute of the Court. At the same time, I hereby declare that the Republic of Poland shall recognize with the effect as of 25 September 1996, in accordance with the provisions of the aforementioned article, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and subject to the sole condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes other than:

(*a*) disputes prior to 25 September 1990 or disputes arisen out of facts or situations prior to the same date,

(*b*) disputes with regard to the territory and State boundaries,

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[1] *I.C.J. Yearbook 1994-1995*, pp. 109-110.

(*c*) disputes with regard to environmental protection,
(*d*) disputes with regard to foreign liabilities or debts,
(*e*) disputes with regard to any State which has made a declaration accepting the compulsory jurisdiction of the International Court of Justice less than twelve months prior to the filing of the application bringing the dispute before the Court,
(*f*) disputes in respect whereof the parties have agreed or shall agree to have recourse to other method of peaceful settlement,
(*g*) disputes relating to matters which, by international law, fall exclusively within the domestic jurisdiction of the Republic of Poland.

The Government of the Republic of Poland reserves its right to withdraw or modify the present Declaration at any time and by means of a notification addressed to the Secretary-General of the United Nations, taking effect after six months from the moment whereof.

25 March 1996.

(*Signed*) Dariusz ROSATI,
Minister of Foreign Affairs.

PORTUGAL

19 XII 55

Under Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare on behalf of the Portuguese Government that Portugal recognizes the jurisdiction of this Court as compulsory *ipso facto* and without special agreement, as provided for in the said paragraph 2 of Article 36 and under the following conditions:

(1) the present declaration covers disputes arising out of events both prior and subsequent to the declaration of acceptance of the "optional clause" which Portugal made on 16 December 1920 as a party to the Statute of the Permanent Court of International Justice;
(2) the present declaration enters into force at the moment it is deposited with the Secretary-General of the United Nations; it shall be valid for a period of one year, and thereafter until notice of its denunciation is given to the said Secretary-General;
(3) the Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.

Washington, D.C., 19 December 1955.

(*Signed*) L. ESTEVES FERNANDES.

SENEGAL[1]

[Translation from the French] 2 XII 85.

I have the honour, on behalf of the Government of the Republic of Senegal, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, it accepts on condition of reciprocity as compulsory *ipso facto* and without special convention, in relation to any other State accepting the same obligation, the jurisdiction of the Court over all legal disputes arising after the present declaration, concerning:

the interpretation of a treaty;
any question of international law;
the existence of any fact which, if established, would constitute a breach of an international obligation;
the nature or extent of the reparation to be made for the breach of international obligation.

This declaration is made on condition of reciprocity on the part of all States. However, Senegal may reject the Court's competence in respect of:

disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
disputes with regard to questions which, under international law, fall exclusively within the jurisdiction of Senegal.

Lastly, the Government of the Republic of Senegal reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend or withdraw the foregoing reservations.

Such notification would take effect on the date of its receipt by the Secretary-General.

Dakar, 22 October 1985.

(*Signed*) Ibrahima FALL,
Minister of Foreign Affairs
of the Republic of Senegal.

SOMALIA

11 IV 63.

I have the honour to declare on behalf of the Government of the Somali Republic that the Somali Republic accepts as compulsory *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of

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[1] This declaration replaced that of 3 May 1985 (*I.C.J. Yearbook 1984-1985*, p. 93).

Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all legal disputes arising other than disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court.

The Somali Republic also reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Mogadishu, 25 March 1963.

(*Signed*) Abdullahi Issa,
Minister for Foreign Affairs.

Spain

[*Translation from the Spanish*] 29 X 90

1. On behalf of the Spanish Government, I have the honour to declare that the Kingdom of Spain accepts as compulsory *ipso facto* and without special agreement, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in relation to any other State accepting the same obligation, on condition of reciprocity, in legal disputes not included among the following situations and exceptions:

(*a*) disputes in regard to which the Kingdom of Spain and the other party or parties have agreed or shall agree to have recourse to some other method of peaceful settlement of the dispute;

(*b*) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court only in relation to or for the purposes of the dispute in question;

(*c*) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court less than 12 months prior to the filing of the application bringing the dispute before the Court;

(*d*) disputes arising prior to the date on which this Declaration was deposited with the Secretary-General of the United Nations or relating to events or situations which occurred prior to that date, even if such events or situations may continue to occur or to have effects thereafter.

2. The Kingdom of Spain may at any time, by means of a notification addressed to the Secretary-General of the United Nations, add to, amend or withdraw, in whole or in part, the foregoing reservations or any that may hereafter be added. These amendments shall become effective

on the date of their receipt by the Secretary-General of the United Nations.

3. The present Declaration, which is deposited with the Secretary-General of the United Nations in conformity with Article 36, paragraph 4, of the Statute of the International Court of Justice, shall remain in force until such time as it has been withdrawn by the Spanish Government or superseded by another declaration by the latter.

The withdrawal of the Declaration shall become effective after a period of six months has elapsed from the date of receipt by the Secretary-General of the United Nations of the relevant notification by the Spanish Government. However, in respect of States which have established a period of less than six months between notification of the withdrawal of their Declaration and its becoming effective, the withdrawal of the Spanish Declaration shall become effective after such shorter period has elapsed.

Madrid, 15 October 1990.

(*Signed*) Francisco FERNÁNDEZ ORDÓÑEZ,
Minister for Foreign Affairs.

SUDAN

2 I 58.

I have the honour by direction of the Ministry of Foreign Affairs to declare, on behalf of the Government of the Republic of the Sudan, that in pursuance of paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Government of the Republic of the Sudan recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, until such time as notice may be given to terminate this declaration, the jurisdiction of the International Court of Justice in all legal disputes arising after the first day of January 1956 with regard to situations or facts subsequent to that date concerning:

(*a*) the interpretation of a treaty concluded or ratified by the Republic of the Sudan on or after the first day of January 1956;
(*b*) any question of international law;
(*c*) the existence of any fact, which, if established, would constitute a breach of an international obligation; or
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

but excluding the following:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of the Sudan as determined by the Government of the Republic of the Sudan;

(iii) disputes arising out of events occurring during any period in which the Republic of the Sudan is engaged in hostilities as a belligerent.

New York, 30 December 1957.

(Signed) Yacoub OSMAN,
Permanent Representative of the Sudan
to the United Nations.

SURINAME

31 VIII 87.

I have the honour by direction of the Minister of Foreign Affairs of the Republic of Suriname, to declare on behalf of the Government of Suriname:

The Government of the Republic of Suriname recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from the seventh September 1987, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes, which have arisen prior to this Declaration or may arise after this Declaration, with the exception of:

(A) disputes which have arisen or may arise with respect to or in relation with the borders of the Republic of Suriname;

(B) disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, have agreed to settlement by means of arbitration, mediation or other methods of conciliation and accommodation.

This Declaration shall be binding for a period of five years and shall continue in force after that period until twelve months after the Government of the Republic of Suriname has given notice of its termination.

New York, 31 August 1987.

(Signed) W. H. Werner VREEDZAAM,
Chargé d'affaires of the Permanent Mission
of the Republic of Suriname
to the United Nations.

SWAZILAND

26 V 69.

I, Prince Makhosini Jameson Dlamini, Prime Minister of the Kingdom of Swaziland to whom His Majesty has delegated responsibility for the conduct of foreign affairs, have the honour to declare on behalf of the Government of the Kingdom of Swaziland, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(*a*) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement, or

(*b*) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Kingdom of Swaziland.

The Government of the Kingdom of Swaziland also reserves the right to add to, amend or withdraw this Declaration by means of a notification addressed to the Secretary-General of the United Nations, with effect as from the moment of such notification.

Mbabane, 9 May 1969.

(*Signed*) Makhosini Jameson DLAMINI,
Prime Minister and Minister
for Foreign Affairs.

SWEDEN[1]

[*Translation from the French*] 6 IV 57.

On behalf of the Royal Swedish Government, I declare that it accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the said Court, for a period of five years as from 6 April 1957. This obligation shall be renewed by tacit agreement for further periods of the same duration unless notice of abrogation is made at least six months before the expiration of any such period. The above-mentioned obligation is accepted only in respect of disputes which may arise with regard to situations or facts subsequent to 6 April 1947.

New York, 6 April 1957.

(*Signed*) Claes CARBONNIER,
Permanent Representative *a.i.*
of Sweden to the United Nations.

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[1] This declaration replaced that of 5 April 1947, which had been made for a period of ten years (United Nations, *Treaty Series*, I, No. 16, Vol. 2).

SWITZERLAND

[Translation from the French] 28 VII 48.

The Swiss Federal Council, duly authorized for that purpose by a Federal decree which was adopted on 12 March 1948 by the Federal Assembly of the Swiss Confederation and became operative on 17 June 1948,

Hereby declares that the Swiss Confederation recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Swiss Confederation becomes a party to that Statute[1] and shall have effect as long as it has not been abrogated subject to one year's notice.

Done at Berne, 6 July 1948.

On behalf of the Swiss Federal Council:

(*Signed*) CELIO,
The President of the Confederation.

(*Signed*) LEIMGRUBER,
The Chancellor of the Confederation.

TOGO

[Translation from the French] 25 X 1979.

The Togolese Republic,

Represented by His Excellency Mr. Akanyi-Awunyo Kodjovi, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Togo to the United Nations,

Acting pursuant to the provisions of Article 36, paragraphs 2 and 3, of the Statute of the International Court of Justice, annexed to the Charter of the United Nations,

Guided by its constant concern to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and desiring to contribute to the strengthening of the international legal order based on the principles set forth in the Charter of the United Nations,

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[1] Switzerland became a party to the Statute of the Court on 28 July 1948.

Declares that it recognizes as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, that is, subject to reciprocity, the jurisdiction of the International Court of Justice in all disputes concerning:

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration has been made for an unlimited period subject to the power of denunciation and modification attached to any obligation assumed by a sovereign State in its international relations. It will enter into force on the day on which it is received by the United Nations Secretariat.

New York, 24 October 1979.

(*Signed*) Akanyi-Awunyo KODJOVI.

UGANDA

3 X 63.

I hereby declare on behalf of the Government of Uganda that Uganda recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, and on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court.

New York, 3 October 1963.

(*Signed*) Apollo K. KIRONDE,
Ambassador and Permanent Representative
of Uganda to the United Nations.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND[1]

1 I 69.

I have the honour, by direction of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to declare on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland-land that they accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after 24 October 1945, with regard to situations or facts subsequent to the same date, other than:

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[1] This declaration replaced that of 27 November 1963 (United Nations, *Treaty Series*, I, No. 6995, Vol. 482), notice of the withdrawal and termination of which was given by letter of 1 January 1969, received by the Secretary-General of the United Nations on that date.

(i) any dispute which the United Kingdom

  (*a*) has agreed with the other Party or Parties thereto to settle by some other method of peaceful settlement; or

  (*b*) has already submitted to arbitration by agreement with any State which had not at the time of submission accepted the compulsory jurisdiction of the International Court of Justice;

(ii) disputes with the government of any other country which is a Member of the Commonwealth with regard to situations or facts existing before 1 January 1969;

(iii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the United Kingdom also reserve the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

New York, 1 January 1969.

(*Signed*) L. C. GLASS.

URUGUAY[1]

[*Translation from the French*] *Prior to* 28 I 21[2].

On behalf of the Government of Uruguay, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

(*Signed*) B. FERNANDEZ Y MEDINA.

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[1] An instrument of ratification was deposited on 27 September 1921. Cf. the footnote to Colombia, p. 95, above.

[2] The date on which this declaration (undated) was first published in a League of Nations document.

YUGOSLAVIA

26 IV 99.

I hereby declare that the Government of the Federal Republic of Yugoslavia recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes arising or which may arise after the signature of the present Declaration, with regard to the situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present Declaration does not apply to disputes relating to questions which, under international law, fall exclusively within the jurisdiction of the Federal Republic of Yugoslavia, as well as to territorial disputes.

The aforesaid obligation is accepted until such time as notice may be given to terminate the acceptance.

New York, 25 April 1999.

(*Signed*) Vladislav JOVANOVIC,
Chargé d'affaires a.i. of
the Permanent Mission of Yugoslavia
to the United Nations.

III. CHRONOLOGICAL LIST OF OTHER INSTRUMENTS GOVERNING THE JURISDICTION OF THE COURT

Below is a chronological list of treaties and other instruments *notified to the Registry* following registration, classification or recording at the Secretariat of the United Nations which (in addition to certain texts referred to in Section I of the present chapter, the declarations reproduced in Section II and the special agreements whereby particular cases were submitted to the Court) contain clauses relating to the jurisdiction of the Court in contentious proceedings. Such clauses generally provide that disputes concerning the application or interpretation of the instrument may be referred to the Court for decision. For each instrument, the table mentions the date and place of signature, the title of the instrument, the relevant clause and the contracting parties, and also, as far as available, the number under which it has been registered or filed and recorded by the Secretariat and the volume in the United Nations *Treaty Series* in which it has been or will be published.

Where instruments prior to 1946 are mentioned they are instruments relating to the jurisdiction of the *Permanent Court of International Justice* which have been filed and recorded by the Secretariat of the United Nations and appear in the *Treaty Series* of the United Nations.

The fact that a treaty is or is not included in this section is without prejudice to its possible application by the Court in a particular case.

Any instrument not mentioned in previous *I.C.J. Yearbooks* is indicated by an asterisk.

1933	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
12 May	Ottawa	Convention concerning the rights of nationals and commercial and shipping matters (Art. 20)	Canada France	II:545 Vol. 253
1939				
17 Dec.	Bogota	Treaty of non-aggression, conciliation and judicial settlement (Art. XXIV)	Colombia Venezuela	II:896 Vol. 1257
1940				
30 Mar.	Caracas	Treaty for the pacific settlement of disputes	Brazil Venezuela	II:195 Vol. 51
1944				
7 Dec.	Chicago	International air services transit agreement (Art. II, Sec. 2)	Multilateral	II:252 Vol. 84
7 Dec.	Chicago	International air transport agreement (Art. IV, Sec. 3)	Multilateral	II:502 Vol. 171
1946				
17 Apr.	Luxembourg	Convention concerning the Luxembourg railways (Art. 12)	Luxembourg Belgium France	I:402 Vol. 27
4 Nov.	Nanking	Treaty of friendship, commerce and navigation (Art. XXVIII)	China[1] United States	I:359 Vol. 25
11 Dec.[2]	Lake Success	International convention relating to dangerous drugs, signed at Geneva, 19 Feb. 1925, as amended (Art. 32)	Multilateral	I:186 Vol. 12
11 Dec.[2]	Lake Success	International convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended (Art. 25)	Multilateral	I:186 Vol. 12
11 Dec.[2]	Lake Success	International convention for the suppression of illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended (Art. 17)	Multilateral	I:186 Vol. 12

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[1] All entries recorded throughout this Section in respect of China refer to actions taken by the authorities representing China in the United Nations at the time of those actions, and are to be understood in the light of General Assembly resolution 2758 (XXVI) of 25 October 1971.

[2] The date and place given here are those of the signature of the amending protocol.

1947	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
18 Apr.	Manila	Treaty of amity (Art. 2)	China[1]/Philippines	I:175 Vol. 11
9 July	Rome	Treaty of friendship and general relations (Art. V)	Italy/Philippines	I:674 Vol. 44
17 Oct.	London	Treaty regarding recognition of Burmese independence (Art. 14)	United Kingdom/ Burma	I:904 Vol. 70
12 Nov.[1]	Lake Success	Convention (concluded at Geneva on 12 Sep. 1923) for the suppression of the circulation of and traffic in obscene publications, as amended (Art. 15)	Multilateral	I:710 Vol. 46
12 Nov.[1]	Lake Success	Convention (concluded at Geneva on 11 Oct. 1933) for the suppression of traffic in women of full age, as amended (Art. 4)	Multilateral	I:772 Vol. 53
1948				
24 Jan.	Paris	Agreement concerning monetary and financial relations (Art. 23)	France/Lebanon	I:2263 Vol. 173
2 Feb.	Rome	Treaty of friendship, commerce and navigation (Art. XXVI)	United States/Italy	I:1040 Vol. 79
30 Apr.	Bogota	American treaty on pacific settlement	Multilateral	I:449 Vol. 30
21 May	New Delhi	Agreement relating to air services (Art. XI)	India/Sweden	I:543 Vol. 34
23 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/India	I:423 Vol. 28
28 June	Rome	Economic co-operation agreement (Art. X)	United States/Italy	I:314 Vol. 20
28 June	Paris	Economic co-operation agreement (Art. X)	United States/ France	I:302 Vol. 19
29 June	Copenhagen	Economic co-operation agreement (Art. X)	United States/ Denmark	I:338 Vol. 22
2 July	Vienna	Economic co-operation agreement (Art. IX)	United States/ Austria	I:323 Vol. 21
2 July	The Hague	Economic co-operation agreement (Art. X)	United States/ Netherlands	I:315 Vol. 20
2 July	Athens	Economic co-operation agreement (Art. X)	United States/ Greece	I:342 Vol. 23
2 July	Brussels	Economic co-operation agreement (Art. X)	United States/ Belgium	I:309 Vol. 19
3 July	Oslo	Economic co-operation agreement (Art. X)	United States/ Norway	I:317 Vol. 20
3 July	Reykjavik	Economic co-operation agreement (Art. X)	United States/ Iceland	I:316 Vol. 20

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[1] See footnote 1, p. 132.

1948 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 July	Nanking	Economic co-operation agreement (Art. XI)	United States/ China[1]	I/273 Vols. 17 and 45
3 July	Luxembourg	Economic co-operation agreement (Art. X)	United States/ Luxembourg	I/350 Vol. 24
3 July	Stockholm	Economic co-operation agreement (Art. IX)	United States/ Sweden	I/343 Vol. 23
4 July	Ankara	Economic co-operation agreement (Art. IX)	United States/ Turkey	I/351 Vol. 24
6 July	London	Economic co-operation agreement (Art. X)	United States/ United Kingdom	I/339 Vol. 22
28 Sep.	Lisbon	Economic co-operation agreement, as amended (Art. X)	United States/ Portugal	I/442 Vol. 29
6 Oct.	Beirut	Treaty concerning consular arrangements, navigation, civil and commercial rights and establishment (Art. 33)	Greece/Lebanon	I/1179 Vol. 87
15/29 Nov.	Washington	*cf.* 1961, 23 Nov.		
9 Dec.	Paris (opened for signature)	Convention on the prevention and punishment of the crime of genocide (Art. IX)	Multilateral	I/1021 Vol. 78
1949				
3 Jan.	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Ceylon	I/428 Vol. 28
28 Apr.	Lake Success (opened for accession)	Revised general act for the pacific settlement of international disputes	Multilateral	I/912 Vol. 71
14 June	Washington	Treaty of friendship (Art. II)	Thailand/ Philippines	I/1062 Vol. 81
4 July	Berne	Convention concerning the construction and use of the Bâle-Mulhouse airport at Blotzheim (Art. 20)	France/Switzerland	I/22048 Vol. 1323
15 July	Lake Success (opened for signature)	Agreement for facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character (Art. IX)	Multilateral	I/2631 Vol. 197
30 Aug.	Ottawa	Agreement relating to air services (Art. 9)	Canada/Belgium	I/782 Vol. 63
10 Sep.	Guatemala City	Treaty of peace, friendship and co-operation (Art. 7)	Guatemala/Italy	I/1410 Vol. 102
19 Sep.	Geneva	Convention on road traffic (Art. 33)	Multilateral	I/1671 Vol. 125
20 Sep.	Beirut	Air transport agreement (Art. IX)	Netherlands/ Lebanon	I/1474 Vol. 108
20 Oct.	New Delhi	Agreement relating to air services (Art. XI)	India/Philippines	I/934 Vol. 72

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[1] See footnote 1, p. 133.

1949 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
31 Oct.	Tehran	Agreement relating to air services (Art. 12)	Netherlands/Iran	I 3596 Vol. 254
1950				
12 Jan.	Canberra	Agreement relating to air services (Art. XII)	Australia/Ceylon	I 709 Vol. 53
21 Jan.	Dublin	Treaty of friendship, commerce and navigation (Art. XXIII)	United States/ Ireland	I 2792 Vol. 206
27 Jan.	Mexico City	Commercial agreement (Art. VII)	Netherlands/ Mexico	I 1661 Vol. 123
18 Feb.	Tehran	Treaty of friendship (Art. IV)	Iran/Pakistan	I 2110 Vol. 161
21 Mar.	Lake Success (opened for signature)	Convention for suppression of traffic in persons and of exploitation of prostitution of others (Art. 22)	Multilateral	I 342 Vol. 96
24 Mar.	Rome	Treaty of friendship, conciliation and judicial settlement (Arts. 18-24)	Turkey/Italy	I 1358 Vol. 96
6 Aug.	Cairo	Agreement relating to air transport services (Art. XVI)	Egypt/France	I 1709 Vol. 127
16 Aug.	Wellington	Agreement relating to air services (Art. X)	New Zealand/ Canada	I 1067 Vol. 77
28 Aug.	Manila	Treaty of friendship, consular services and establishment (Art. II)	Greece/Philippines	I 3067 Vol. 222
16 Sep.	Brussels	Commercial agreement (Art. 7)	Belgo-Luxembourg Economic Union/ Mexico	I 2929 Vol. 188
15 Dec.	London	Trade agreement (Art. 8)	United Kingdom/ Norway	I 1459 Vol. 106
1951				
2 Feb.	Paris	Treaty of cession of the territory of the Free Town of Chandernagore (Art. XI)	India/France	I 2744 Vol. 203
22 Feb.	Oslo	Consular convention (Art. 34)	United Kingdom/ Norway	I 4713 Vol. 326
8 May	London	Agreement for air services (Art. 10)	Belgium/ United Kingdom	I 2079 Vol. 158
24 May	New Delhi	Agreement relating to air services (Art. XI)	India/Netherlands	I 1471 Vol. 108
18 June	Tehran	Agreement relating to air services (Art. 12)	Denmark/Iran	I 3602 Vol. 255
28 July	Geneva (opened for signature)	Convention relating to the status of refugees (Art. 38)	Multilateral	I 2545 Vol. 189
3 Aug.	Athens	Treaty of friendship, commerce and navigation (Art. XXVI)	Greece/ United States	I 3080 Vol. 224

1951 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
23 Aug.	Washington	Treaty of friendship, commerce and navigation (Art. XXIV)	Israel United States	I: 2979 Vol. 219
7 Sep.	Addis Ababa	Treaty of amity and economic relations (Art. XVII)	United States Ethiopia	I: 2785 Vol. 206
8 Sep.	San Francisco	Treaty of peace with Japan (Art. 22)	Multilateral	I: 1832 Vol. 136
25 Sep.	Canberra	Agreement relating to air services (Art. VIII)	Netherlands Australia	I: 1713 Vol. 128
1 Oct.	Copenhagen	Treaty of friendship, commerce and navigation (Art. XXIV)	United States Denmark	I: 6056 Vol. 421
31 Dec.	Paris	Consular convention (Art. 49)	France United Kingdom	I: 4744 Vol. 330
1952				
14 Mar.	Stockholm	Consular convention (Art. 34)	Sweden United Kingdom	I: 2731 Vol. 202
9 May	Tel Aviv	Agreement for economic assistance (Art. VIII)	United States/Israel	I: 226 Vol. 177
14 June	Cairo	Agreement relating to air services (Art. XIV)	Australia/Egypt	I: 2269 Vol. 173
11 July	Manila	Treaty of friendship (Art. II)	India/Philippines	I: 2741 Vol. 203
17 July	Karachi	Agreement relating to air services (Art. XI)	Pakistan Netherlands	I: 1980 Vol. 150
29 Aug.	Cairo	Agreement relating to air services (Art. XI)	Ethiopia/Pakistan	I: 1979 Vol. 150
6 Sep.	Geneva	Universal copyright convention (Art. XV)	Multilateral	I: 2937 Vol. 216
1953				
9 Jan.		Treaty of permanent friendship (Art. VI)	Costa Rica/Spain	
31 Mar.	New York (opened for signature)	Convention on the political rights of women (Art. IX)	Multilateral	I: 2613 Vol. 193
31 Mar.	New York (opened for signature)	Convention on the international right of correction (Art. V)	Multilateral	I: 6280 Vol. 435
2 Apr.	Tokyo	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/Japan	I: 2788 Vol. 206
17 Apr.	Athens	Consular convention (Art. 35)	Greece United Kingdom	I: 2582 Vol. 191
27 Apr.	Bangkok	Agreement relating to air services (Art. 10)	Thailand Philippines	I: 2274 Vol. 174
23 June	New York (opened for signature)	Protocol for limiting and regulating cultivation of poppy plant, production of, international and wholesale trade in, and use of opium (Art. 15)	Multilateral	I: 6555 Vol. 456

1953 *cont.*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
1 July	Paris (opened for signature)	Convention for the establishment of a European Organization for Nuclear Research (Art. XI)	Multilateral	I: 2701 Vol. 200
14 Sep.	Colombo	Agreement for air services (Art. 11)	Netherlands/Ceylon	I: 2608 Vol. 193
24 Sep.	Helsinki	Agreement concerning a supplement to the convention of 30 January 1926 for the pacific settlement of disputes	Finland/Denmark	I: 2532 Vol. 188
26 Sep.	Madrid	Economic aids agreement (Art. IX)	Spain/United States	I: 2802 Vol. 207
19 Oct.	Venice	Constitution of the Intergovernmental Committee for European Migration (Art. 30)	Multilateral	I: 2807 Vol. 207
7 Dec.[1]	New York	Slavery convention signed at Geneva on 25 Sep. 1926, as amended (Art. 8)	Multilateral	I: 2861 Vol. 212
24 Dec.	Beirut	Agreement for air services (Art. 10)	Belgium/Lebanon	I: 2972 Vol. 219
1954				
16 Feb.	Paris	Convention on conditions of residence and navigation (Art. 13)	Sweden/France	I: 3147 Vol. 228
3 Mar.	Bangkok	Treaty of friendship (Art. VI)	Thailand/Indonesia	I: 2893 Vol. 213
20 Mar.	Mexico City	Consular convention (Art. 36)	United Kingdom/ Mexico	I: 4750 Vol. 331
17 Apr.	Beirut	Agreement relating to air services (Art. XIII)	Yugoslavia/ Lebanon	I: 8713 Vol. 602
12 May	London (opened for signature)	International convention for the prevention of pollution of the sea by oil (Art. XIII)	Multilateral	I: 4714 Vol. 327
1 June	Rome	Consular convention (Art. 37)	United Kingdom/ Italy	I: 5798 Vol. 403
28 Sep.	New York	Convention relating to the status of stateless persons (Art. 34)	Multilateral	I: 5158 Vol. 360
13 Oct.	Paris (opened for signature)	International convention on the standardization of methods of analysing and appreciating wines (Art. 6)	Multilateral	I: 10416 Vol. 724

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[1] The date and the place given here are those at which the amending protocol was opened for signature.

1954 *cont.*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
23 Oct.[1]	Paris	Treaty for collaboration in economic, social and cultural matters and for collective self-defence, signed at Brussels on 17 March 1948, as amended (Art. X)	Belgium, France, Luxembourg, Netherlands, United Kingdom, Fed. Rep. of Germany, Italy	I:304 Vols. 19 and 211
29 Oct.	Washington	Treaty of friendship, commerce and navigation (Art. XXVII)	United States/Fed. Rep. of Germany	I:3943 Vol. 273
5 Nov.	Rangoon	Treaty of peace (Art. IX)	Burma/Japan	I:3542 Vol. 251
24 Nov.	Rio de Janeiro	Agreement concerning conciliation and judicial settlement (Arts. 16-22)	Italy/Brazil	I:4146 Vol. 284
1 Dec.[2]	Paris	Agreement concerning the International Institute of Refrigeration, replacing the convention of 21 June 1920 (Art. XXXIII)	Multilateral	I:11837 Vol. 826
14 Dec.	Quito	Air transport agreement (Art. VIII)	Netherlands/Ecuador	I:3233 Vol. 232
1955				
31 Jan.	Manila	Agreement for air services (Art. 11)	Philippines/United Kingdom	I:2932 Vol. 216
5 Mar.	Paris	Consular convention (Art. 44)	Sweden/France	I:6150 Vol. 427
10 Aug.	Tripoli	Treaty of friendship and good neighbourliness (Art. 8)	France/Libya	
15 Aug.	Tehran	Treaty of amity, economic relations and consular rights (Art. XXI)	United States/Iran	I:4132 Vol. 284
17 Sep.	Lugano	Convention concerning the regulation of Lake Lugano (Art. XI)	Italy/Switzerland	I:4257 Vol. 291
20 Oct.	Berne	Additional protocol to the convention concerning the constitution of "Eurofima" (Art. 14)	Multilateral	I:5425 Vol. 378
21 Oct.	Beirut	Air transport agreement (Art. 11)	Denmark/Lebanon	I:3482 Vol. 248
13 Dec.	Paris	European convention on establishment (Art. 31)	Multilateral	I:7660 Vol. 529
1956				
27 Mar.	The Hague	Treaty of friendship, commerce and navigation (Art. XXV)	Netherlands/United States	I:4154 Vol. 285

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[1] The date and the place given here are those of the signature of the protocol modifying and completing the Treaty, by which Article VIII of the Treaty became Article X.

[2] The date and place given here are those of the signature of the revised Convention.

1956 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
30 Apr.	Paris	Agreement on commercial rights of non-scheduled air services in Europe (Art. 4)	Multilateral	I: 4494 Vol. 310
19 May	Geneva (opened for signature)	Convention on the contract for the international carriage of goods by road (Art. 47)	Multilateral	I: 5742 Vol. 399
20 June	New York (opened for signature)	Convention on the recovery abroad of maintenance (Art. 16)	Multilateral	I: 3850 Vol. 268
30 July	Bonn	Consular convention (Art. 41)	United Kingdom/ Fed. Rep. of Germany	I: 4748 Vol. 330
30 Aug.	Manila	Treaty of friendship (Art. 2)	Philippines/ Switzerland	I: 4284 Vol. 293
7 Sep.	Geneva	Supplementary convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery (Art. 10)	Multilateral	I: 3822 Vol. 266
28 Nov.	Seoul	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Rep. of Korea	I: 4367 Vol. 302
11 Dec.	Athens	Convention on judicial settlement	Greece/Sweden	I: 4316 Vol. 299
1957				
20 Feb.	New York (opened for signature)	Convention on the nationality of married women (Art. 10)	Multilateral	I: 4468 Vol. 309
28 Feb.	Tokyo	Treaty of commerce and navigation (Art. XVIII, para. 2)	Norway/Japan	I: 4054 Vol. 280
24 Apr.	Cairo	Declaration on the Suez Canal and the arrangements for its operation (para. 9)	Egypt[1]	I: 3821 Vol. 265
29 Apr.	Strasbourg (opened for signature)	European convention of the peaceful settlement of disputes	Multilateral	I: 4646 Vol. 320
23 June	Kabul	Agreement relating to air services (Art. XI)	Pakistan/ Afghanistan	I: 4717 Vol. 327
23 Nov.	The Hague	Agreement relating to refugee seamen (Art. 14)	Multilateral	I: 7384 Vol. 506
1958				
20 Jan.	Djakarta	Treaty of peace (Art. 6)	Japan/Indonesia	I: 4688 Vol. 324
3 Feb.	The Hague	Treaty instituting the Benelux Economic Union (Art. 50)	Belgium, Luxembourg, Netherlands	I: 5471 Vol. 381

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[1] See Sec. II, p. 98, above.

1958 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
5 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Norway-Pakistan	I-4370 Vol. 314
6 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Sweden-Pakistan	I-5656 Vol. 393
10 Apr.	Copenhagen	Agreement relating to air services (Art. XI)	Denmark-Pakistan	I-4351 Vol. 303
14 Apr.	Tehran	Agreement concerning air transport (Art. 13)	Belgium-Iran	I-5471 Vol. 383
29 Apr.	Geneva (opened for signature)	Optional protocol of signature concerning the compulsory settlement of disputes[1]	Multilateral	I-6466 Vol. 450
7 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan-Portugal	I-4645 Vol. 320
4 July	Karachi	Agreement relating to air services (Art. XI)	Belgium-Pakistan	I-5569 Vol. 387
21 July	Vienna	Agreement relating to air services (Art. XI)	Austria-Afghanistan	I-9236 Vol. 645
28 Nov.	Monrovia	Agreement for the establishment and operation of air services (Art. 9)	Liberia-Netherlands	I-5671 Vol. 391
1959				
30 Jan.	Tegucigalpa	Agreement on commerce (Art. XII)	Belgium, Luxembourg, Netherlands-Honduras	I-9234 Vol. 645
16 July	Rome	Agreement relating to air services (Art. XI)	India-Italy	I-6714 Vol. 464
12 Nov.	Washington	Treaty of friendship and commerce (Art. XXIII)	United States-Pakistan	I-5816 Vol. 404
19 Nov.	Rome	Convention placing the International Poplar Commission within the framework of FAO (Art. XV)	Multilateral	I-5902 Vol. 410
25 Nov.	Paris	Convention of establishment (Art. XVI)	United States-France	I-5794 Vol. 401
25 Nov.	Bonn	Treaty for the promotion and protection of investments (Art. 11)	Pakistan-Fed. Rep. of Germany	I-6575 Vol. 457
1 Dec.	Washington	Antarctic treaty (Art. XI)	Multilateral	I-5778 Vol. 402
8 Dec.	Monrovia	Agreement relating to air services (Art. VIII)	Sweden-Liberia	I-6716 Vol. 464
1960				
15 Feb.[2]	Beirut	Agreement for air transport of 24 Jan. 1949, as amended (Art. 9)	Italy-Lebanon	I-4273 Vol. 497

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[1] This Protocol relates to disputes concerning the Geneva Conventions on the Law of the Sea of 29 April 1958.

[2] The date given here is the date of signature of the amending protocol.

1960	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
9 Mar	Conakry	Air transport agreement (Art 9)	Netherlands/Guinea	I:5646 Vol 392
15 Mar	Geneva	Convention relating to the unification of certain rules concerning collisions in inland navigation (Art 14)	Multilateral	I:8310 Vol 572
23 Mar	Berne	Agreement concerning air services (Art 9)	Belgium/ Switzerland	I:5996 Vol 419
8 Apr	The Hague	Treaty concerning arrangements for co-operation in the Ems estuary (Art 46)	Netherlands/ Fed Rep of Germany	I:7404 Vol 509
8 Apr	The Hague	Agreement to accept the compulsory jurisdiction of the International Court of Justice in disputes concerning the interpretation or application of the revised convention on Rhine navigation 1868	Netherlands/ Fed Rep of Germany	I:7405 Vol 509
24 June	Vienna	Consular convention (Art 45)	United Kingdom/ Austria	I:7331 Vol 501
19 Oct	Amman	Agreement relating to air services (Art 9)	Belgium/Jordan	I:6059 Vol 478
14 Dec	Paris	Convention against discrimination in education (Art 22)	Multilateral	I:6193 Vol 429
14 Dec	New Delhi	Agreement of 11 July 1949 relating to air services as amended (Art X)[1]	India/Australia	I:[illegible] Vols [illegible] and 429
18 Dec	Tokyo	Treaty of friendship and commerce (Art XIII)	Pakistan/Japan	I:6097 Vol 423
1961				
21 Feb	Brussels	Treaty of friendship establishment and navigation (Art 13)	Belgium/ United States	I:6987 Vol 480
9 Mar	Brussels	Consular convention (Art 45)	Belgium/ United Kingdom	I:7584 Vol 523
11 Mar	Reykjavik	Exchange of notes constituting an agreement settling the fisheries dispute (para 4)	Iceland/ United Kingdom	I:5750 Vol 397
30 Mar	New York	Single convention on narcotic drugs (Art 48)	Multilateral	I:7515 Vol 520
3 Apr	Saigon	Treaty of amity and economic relations (Art XIV)	United States/ Republic of Viet Nam	I:6098 Vol 424
18 Apr	Vienna	Optional protocol to the Vienna convention on diplomatic relations concerning the compulsory settlement of disputes	Multilateral	I:7312 Vol 500

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[1] The date given here is that of the exchange of notes which modified the Agreement and by which Article XI became Article X.

1961 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
30 May	Madrid	Consular convention (Art. 53)	United Kingdom/Spain	I/8198 Vol. 562
17 June	Conakry	Air transport agreement (Art. 9)	Sweden/Guinea	I/6729 Vol. 465
19 July	Reykjavik	Exchange of notes constituting an agreement concerning the fishery zone round Iceland (para. 5)	Iceland/Fed. Rep. of Germany	I/5877 Vol. 409
27 July	Beirut	Agreement for the establishment and operation of air services (Art. XII)	Lebanon/Liberia	I/11304 Vol. 794
24 Aug.	Amman	Agreement relating to air services (Art. 9)	Netherlands/Jordan	I/6733 Vol. 466
30 Aug.	New York	Convention on the reduction of statelessness (Art. 14)	Multilateral	I/14458 Vol. 989
31 Aug.	Monrovia	Agreement relating to air services (Art. XII)	Switzerland/Liberia	I/8160 Vol. 559
26 Oct.	Rome	International convention for the protection of performers, producers of phonograms and broadcasting organizations (Art. 30)	Multilateral	I/7247 Vol. 496
23 Nov.[1]	Rome	Constitution of the International Rice Commission, adopted at Washington 15/29 Nov. 1948, as amended (Art. XI)	Multilateral	I/1613 Vol. 418
23 Nov.[1]	Rome	Agreement for the establishment of Indo-Pacific Fisheries Council, adopted at Washington 15/29 Nov. 1948, as amended (Art. III)	Multilateral	I/1615 Vol. 418
1962				
23 Feb.	Luxembourg	Treaty of friendship, establishment and navigation (Art. XVII)	United States/Luxembourg	I/6868 Vol. 474
19 Mar.	Evian	*cf.* 1962, 3 July		
21 June	Paris	Air transport agreement (Art. 9)	Norway/Guinea	I/6738 Vol. 466
27 June	Copenhagen	Consular convention (Art. 36)	United Kingdom/Denmark	I/8197 Vol. 562
29 June	Bonn	Agreement relating to air services (Art. VIII)	Norway/Liberia	I/6739 Vol. 466

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the instrument.

1962 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 July[1]	Paris and Rocher-Noir	Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (declaration of principles relating to the settlement of disputes)	France Algeria	I: 7395 Vol. 507
14 Nov.	London	Treaty of commerce, establishment and navigation (Art. 31)	United Kingdom Japan	I: 6934 Vol. 478
10 Dec.	New York (opened for signature)	Convention on consent to marriage, minimum age for marriage and registration of marriages (Art. 8)	Multilateral	I: 7525 Vol. 521
1963				
8 Jan.	Seoul	Consular convention (Art. 16)	United States Republic of Korea	I: 7211 Vol. 493
24 Apr.	Vienna	Optional protocol to the Vienna convention on consular relations concerning the compulsory settlement of disputes	Multilateral	I: 8640 Vol. 596
13 Aug.	Asuncion	Agreement on trade and navigation (Art. XVI)	Belgium, Luxembourg, Netherlands Paraguay	I: 8572 Vol. 592
14 Sep.	Tokyo	Convention on offences and certain other acts committed on board aircraft (Art. 24)	Multilateral	I: 10106 Vol. 704
26 Oct.	Niamey	Act regarding navigation and economic co-operation between the States of the Niger Basin (Art. 7)	Multilateral	I: 8506 Vol. 587
31 Oct.	Paris (opened for signature)	Protocol on privileges and immunities of the European Space Research Organization (Art. 29)	Multilateral	I: 11473 Vol. 805
3 Dec.[2]	Rome	Agreement for the establishment of a General Fisheries Council for the Mediterranean, drawn up at Rome on 24 Sep. 1949, as amended (Art. XIII)	Multilateral	I: 1691 Vol. 490

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[1] The date and the places given here are those of the exchange of letters.

[2] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the Agreement.

1963 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 Dec	Rome	Agreement for the establishment of a Commission for Controlling the Desert Locust in the Eastern Region of Its Distribution Area in South-West Asia (Art. XVII)	Multilateral	I: 7663 Vol. 529
1964				
4 Feb	Karachi	Agreement relating to scheduled air services (Art. XII, para. B. 6)	Pakistan-Lebanon	I: 8863 Vol. 614
4 May	Tokyo	Consular convention (Art. 39)	United Kingdom-Japan	I: 8179 Vol. 561
19 Sep	Beirut	Agreement relating to air services (Art. XI)	India-Lebanon	I: 11820 Vol. 825
1965				
25 Jan	Geneva	Convention on the registration of inland navigation vessels (Art. 20)	Multilateral	I: 21114 Vol. 1281
18 Mar	Washington (opened for signature)	Convention on the settlement of investment disputes between States and nationals of other States (Art. 64)	Multilateral	I: 8359 Vol. 575
21 Apr	Belgrade	Consular convention (Art. 45)	United Kingdom-Yugoslavia	I: 8620 Vol. 595
2 July	Rome	Agreement for establishment of a commission for controlling the desert locust in the Near East (Art. XVI)	Multilateral	I: 8575 Vol. 592
7 July	London	Treaty for conciliation, judicial settlement and arbitration (Art. 14)	United Kingdom-Switzerland	I: 8765 Vol. 605
1966				
8 Feb	Lomé	Treaty of amity and economic relations (Art. XIV)	United States-Togo	I: 9677 Vol. 680
15 Feb	Geneva	Convention on the measurement of inland navigation vessels (Art. 14)	Multilateral	I: 13899 Vol. 964
7 Mar	New York (opened for signature)	International convention on the elimination of all forms of racial discrimination (Art. 22)	Multilateral	I: 9464 Vol. 660
1967				
31 Jan	New York	Protocol relating to the status of refugees (Art. IV)	Multilateral	I: 8791 Vol. 606
14 Feb	Mexico City	Treaty for the prohibition of nuclear weapons in Latin America (Art. 24)	Multilateral	I: 9068 Vol. 634
14 Mar	Manila	Trade agreement (Art. IX)	Belgium, Luxembourg, Netherlands-Philippines	I: 12382 Vol. 863

1967 (cont.)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
24 May	Kabul	Agreement relating to air services (Art. IX)	Denmark Afghanistan	I-9951 Vol. 695
1 June	London	Convention on conduct of fishing operations in the North Atlantic (Art. 13)	Multilateral	I-15849 Vol. 1051
10 July	Paris	International agreement on the procedure for the establishment of tariffs for scheduled air services (Art. 4)	Multilateral	I-9971 Vol. 696
14 July	Stockholm	Convention for the protection of industrial property signed at Paris on 20 March 1883, as revised (Art. 28)	Multilateral	I-11851 Vol. 828
1968				
23 Feb	Brussels	Protocol amending the international convention for the unification of certain rules of law relating to bills of lading, signed at Brussels on 25 August 1924 (Art. 8)	Multilateral	I-23643 Vol. 1412
8 Nov	Vienna	Convention on road traffic (Art. 52)	Multilateral	I-15705 Vol. 1042
8 Nov	Vienna	Convention on road signs and signals (Art. 44)	Multilateral	I-16743 Vol. 1091
1969				
13 Feb	Geneva	Agreement establishing the European Molecular Biology Conference (Art. VIII)	Multilateral	I-10462 Vol. 727
23 May	Vienna	Convention on the law of treaties (Art. 66)	Multilateral	I-18232 Vol. 1155
25 July	Boston	International health regulations (Art. 106)	Multilateral	I-10921 Vol. 764
2 Sep	Washington	Consular convention (Art. 46)	Belgium United States	I-13179 Vol. 924
8 Sep	Mexico City	Convention on the privileges and immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (Art. 7)	Multilateral	I-16541
30 Dec	Belgrade	Consular convention (Art. 46)	Belgium Yugoslavia	I-13441 Vol. 943
1970				
23 Apr	Brussels	International convention on travel contracts (Art. 32, para. 2)	Multilateral	I-21051 Vol. 1275
19 June	Washington	Treaty on patent co-operation (Art. 59)	Multilateral	I-18336 Vol. 1160

The date and the place given here are those of the signature of the revised Convention.

1970	Place	Title and Clause	Contracting Parties	Treaty Series
1 Dec	Rome	Agreement for the establishment of a commission for controlling the desert locust in North-West Africa (Art. XVI)	Multilateral	I: 11384 Vol. 797
16 Dec	The Hague	Convention on the suppression of the unlawful seizure of aircraft (Art. 12, para. 1)	Multilateral	I: 12325 Vol. 860
1971				
21 Feb	Vienna	Convention on psychotropic substances (Art. 31)	Multilateral	I: 14956 Vol. 1019
14 July	Brussels	Treaty of commerce (Art. 11)	Belgium, Luxembourg, Netherlands USSR	I: 12656 Vol. 883
17 July	Accra	Agreement for the provision of a special loan to the Government of the Republic of Ghana to facilitate the payment of medium term commercial debts (Art. VII)	United Kingdom Ghana	I: 11467 Vol. 805
24 July	Paris	Convention for the protection of literary and artistic works signed at Berne on 9 September 1886 as revised (Art. 33)	Multilateral	I: 25900
24 July	Paris	Universal copyright convention signed at Geneva on 6 September 1952 as revised (Art. XV)	Multilateral	I: 13444 Vol. 943
23 Sep	Montreal	Convention for the suppression of unlawful acts against the safety of civil aviation (Art. 14)	Multilateral	I: 14118 Vol. 974
8 Oct	Paris	Convention on the establishment of the International Institute for the Management of Technology (Art. 7)	Multilateral	I: 14366 Vol. 995
1972				
28 Apr	Ankara	Consular convention (Art. 50)	Belgium, Turkey	I: 15142 Vol. 1029
16 May	Basle	European convention on State immunity (Art. 34)	Multilateral	I: 25699
1973				
10 May	Geneva	Agreement establishing the European Molecular Biology Laboratory (Art. XII)	Multilateral	I: 13668 Vol. 958

The date and the place given here are those of the signature of the revised Convention.

1973 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
12 June	The Hague	Protocol relating to refugee seamen (Art. II)	Multilateral	I 13928 Vol. 965
22 June	Rome	Agreement for the establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (Art. XX)	Multilateral	I 14604 Vol. 997
5 Oct.	Munich	Convention on the grant of European patents (Art. 173)	Multilateral	I 16208 Vol. 1065
19 Nov.	Montevideo	Treaty of the La Plata River and its maritime limits (Art. 87)	Uruguay, Argentina	I 21424 Vol. 1295
30 Nov.	New York	International convention on the suppression and punishment of the crime of *apartheid* (Art. XII)	Multilateral	I 14861 Vol. 1015
14 Dec.	New York	Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents (Art. 13)	Multilateral	I 15410 Vol. 1035
1974				
19 Feb.	Madrid	Agreement on the delimitation of the continental shelf (Art. 7, para. 2)	Italy, Spain	I 17428 Vol. 1120
22 Mar.	Helsinki	Convention on the protection of the marine environment of the Baltic Sea area (Art. 18, para. 2)	Multilateral	I 18588 Vol. 1140
16 May	Khartoum	Agreement relating to the joint exploration of the natural resources of the sea-bed and subsoil of the Red Sea in the common zone (Art. XVI)	Sudan, Saudi Arabia	I 13605 Vol. 952
1975				
26 Feb.	Salto	Treaty concerning the statute of the river Uruguay (Art. 60)	Uruguay, Argentina	I 21425 Vol. 1295
8 Aug.	New York	Single convention on narcotic drugs, 1961, as amended (Art. 48)	Multilateral	I 14152 Vol. 976
1977				
24 May	Athens	Agreement on the delimitation of the respective continental shelves of the two States (Art. IV)	Greece, Italy	I 20066 Vol. 1275
1978				
5 July	Geneva	Protocol to the convention on the contract for the international carriage of goods by road (CMR) (Art. 8)	Multilateral	I 19487 Vol. 1208

1979	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
30 Mar.	Geneva	International agreement on olive oil (Art. 14, para. 2)	Multilateral	I. 19674 Vol. 1219
10 May	Manila	Treaty of amity, commerce and navigation (Art. XV, para. 2)	Japan-Philippines	I. 20929 Vol. 1272
8 Apr.	Vienna	Constitution of the United Nations Industrial Development Organization (UNIDO) (Art. 22, para. 1 (b))	Multilateral	I. 23432 Vol. 1401
17 Dec.	New York	International convention against the taking of hostages (Art. 16, para. 1)	Multilateral	I. 21931 Vol. 1316
18 Dec.	New York	Convention on the elimination of all forms of discrimination against women (Art. 29)	Multilateral	I. 20378 Vol. 1249
1980				
20 May	Canberra	Convention on the conservation of Antarctic marine living resources	Multilateral	I. 22301 Vol. 1329
30 Oct.	Lima	General peace treaty (Arts. 31-36 and 39)	El Salvador-Honduras	I. 21826 Vol. 1310
1981				
23 Jan.	Cotonou	Agreement concerning technical co-operation (Art. XI)	Switzerland-Benin	I. 19904 Vol. 1226
1984				
10 Dec.	New York	Convention against torture and other cruel, inhuman or degrading treatment or punishment (Art. 30, para. 1)	Multilateral	I. 24841
1985				
22 Mar.	Vienna	Vienna convention for the protection of the ozone layer (Art. 11)	Multilateral	I. 26164
10 Dec.	New York	International convention against *apartheid* in sports (Art. 19)	Multilateral	I. 25822
1986				
21 Mar.	Vienna	Vienna convention on the law of treaties between States and international organisations or between international organizations (Art. 66, para. 2)	Multilateral	
1988				
10 Mar.	Rome	Convention for the suppression of unlawful acts against the safety of maritime navigation (Art. 16, para. 1)	Multilateral	I. 29004
20 Dec.	Vienna	United Nations convention against illicit traffic in narcotic drugs and psychotropic substances (Art. 32)	Multilateral	I. 27627

1989	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
4 Dec.	New York	International convention against the recruitment, use, financing and training of mercenaries (Art. 17 para. 1)	Multilateral	
1990				
*18 Dec.	New York	International Convention on the protection of the rights of all migrant workers and members of their families (Art. 92, para. 1)	Multilateral	
1991				
25 Feb.	Espoo	Convention on environmental impact assessment in a transboundary context (Art. 15, para. 2)	Multilateral	
1 Mar.	Montreal	Convention on the marking of plastic explosives for the purpose of detection (Art. XI, para. 1)	Multilateral	
1992				
17 March	Helsinki	Convention on the protection and use of transboundary watercourses and international lakes (Art. 22, para. 1)	Multilateral	
9 May	New York	United Nations framework convention on climate change (Art. 14, para. 2)	Multilateral	
5 June	Rio de Janeiro	Convention on biological diversity (Art. 27, para. 3)	Multilateral	
1994				
14 June	Oslo	Protocol to the 1979 Convention on long-range transboundary air pollution on further reduction of sulphur emissions (Art. 9)	Multilateral	

CHAPTER V

FUNCTIONING AND PRACTICE OF THE COURT

In matters concerning its administration and procedure, the International Court of Justice applies Articles 21, 22 and 39-68 of its Statute and Articles 12, 19-31 and 38-109 of its Rules.

I. SEAT

The seat of the Court is established at The Hague (Netherlands); this, however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the *Permanent Court of International Justice* as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing as well as a number of newly constructed offices on the third floor of the Peace Palace were inaugurated in 1997.

An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946. It provides for the payment to the Carnegie Foundation of an annual contribution (see Chap. VIII, p. 361, below).

II. ADMINISTRATION

1. The Presidency and the Committees of the Court

The President shall preside at all meetings of the Court; he shall direct the work and supervise the administration of the Court (Rules, Art. 12)[1].

Decisions which have to be taken by the Court on administrative matters are prepared by a Budgetary and Administrative Committee composed of the President, the Vice-President and six judges who are elected annually (at present Judges Bedjaoui, Guillaume, Shi, Fleischhauer, Vereshchetin and Kooijmans).

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[1] Occasionally the President is requested by third persons to undertake tasks outside the judicial work of the Court. These activities are described at the end of this chapter (pp. 166-170 below).

In 1967 the Court established a Committee on Relations. Its present members are Vice-President Weeramantry and Judges Herczegh and Parra-Aranguren. This committee is responsible for preparing plans and programmes with a view to the wider dissemination of information on the work of the Court and the maintenance of its relations with other United Nations organs, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law.

In 1970 the Court established a Library Committee (at present Judges Shi, Koroma, Higgins, Kooijmans and Rezek) to review the programme of acquisitions for the library of the Court and supervise the continuous modernization of its services.

In 1979 the Court constituted the Rules Committee as a standing body. Its members are at present Judges Oda, Guillaume, Fleischhauer, Koroma, Higgins and Rezek.

During the period under review the Court established a Committee on Computerization, under the chairmanship of Judge Guillaume and open to all interested Members of the Court.

2. *The Registry*

The Registry is the administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Rules, Arts. 22-29). The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar, and Instructions for the Registry are drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The instructions drawn up in October 1946 were amended in March 1947 and September 1949 (*I.C.J. Yearbook 1946-1947*, pp. 72-87; *I.C.J. Yearbook 1949-1950*, p. 24). In December 1997 the Court accepted virtually all recommendations of a Sub-Committee on Rationalization which it had created to examine the working methods in the Registry and to make proposals for their rationalization and improvement (cf. the Court's response to General Assembly resolution 52/161, reproduced in *I.C.J. Yearbook 1997-1998*, p. 275).

(a) *The Registrar and the Deputy-Registrar*

The Court appoints its Registrar from among candidates proposed by Members of the Court; he is elected for a term of seven years and may be re-elected (Statute, Art. 21, para. 2; Rules, Art. 22). The Court also appoints a Deputy-Registrar, under the same conditions and in the same way as the Registrar (Rules, Art. 23).

The general functions of the Registrar are defined by the Rules of Court (Art. 26) and the Instructions for the Registry (Art. 1). Under the Instructions: "the Registrar is responsible for all departments of the Registry. The Staff is under his control and he alone is authorized to direct the work of the Registry, of which he is the Head. He is assisted by the Deputy-Registrar and, in the event of his absence, is replaced by the Deputy-Registrar or, failing him, an official of the Registry appointed by the President (Rules, Art. 27; Instructions for the Registry, Arts. 2 and 42).

The present Registrar is Mr. Eduardo Valencia-Ospina, of Colombian nationality, who was elected on 19 February 1987 and re-elected on 15 February 1994 for a term of 7 years, as from 19 February 1994. He was previously the Court's Deputy-Registrar (1984-1987) and before that had served as the senior legal officer of the Codification Division at the Office of Legal Affairs in the United Nations Secretariat.

On 15 February 1994 the Court elected Mr. Jean-Jacques Arnaldez to the post of Deputy-Registrar for a term of 7 years, as from 19 February 1994. Mr. Arnaldez, who is of French nationality, was previously Legal Counsel in a Paris international law firm (1977-1982) and Counsel in the International Court of Arbitration of the International Chamber of Commerce (ICC) in Paris (1982-1994).

Previous Registrars of the Court were E. Hambro (1946-1953), J. Lopez-Olivan (1953-1960), J. Garnier-Coignet (1960-1966), S. Aquarone (1966-1980) and S. Torres Bernardez (1980-1986). Previous Deputy-Registrars were J. Garnier-Coignet (1946-1960), S. Aquarone (1960-1966), W. Tait (1966-1976), A. Pillepich (1977-1984), E. Valencia-Ospina (1984-1987), and B. Noble (1987-1994).

(b) *Departments of the Registry*

The officials of the Registry are appointed by the Court on proposals submitted by the Registrar (Statute, Art. 21, para. 2; Rules, Art. 25). General Service category and temporary staff, however, are appointed by the Registrar (Rules, Art. 25; Staff Regulations for the Registry, Art. 5; Instructions for the Registry, Art. 4).

All officials of the Registry, whether permanent or temporary, must be proficient in English and French and those whose work involves linguistic responsibilities must have one of these languages as their first language.

The following table gives a list of officials employed by the Registry (both on a permanent basis and under fixed-term contracts) as at 31 July 1999.

	Date of assumption of duties	*Nationality*
Department of Legal Matters		
Principal Legal Secretary		
Ph. Couvreur	13 April 1982	Belgian
First Secretary		
Ms B. Shifman	1 November 1998	American
Secretary		
J.-P. Issele	5 April 1988	French

Legal Officers		
F. Ouguergouz	1 February 1995	Algerian
S. Pounjine	1 August 1997	Russian
D. Prager	1 January 1998	Austrian
Department of Linguistic Matters		
First Secretary		
A. Brouillet	13 June 1988	French
Translators Interpreters		
F. Mengin	5 May 1986	French
T. Johnston	1 September 1998	British
Ms S. Caromjot	5 July 1999	French
Ms D. M. Pierfederici	1 January 1994	French
Ms M. Acker	20 June 1999	French
Department of Press and Information Matters		
First Secretary		
A. Th. Witteveen	15 July 1975	Dutch
Information Officer		
Ms L. Blairon	1 October 1997	Belgian
Publications Division		
P. Vio Head of Division	1 June 1974	Italian
S. H. Herd Deputy Head of Division	1 August 1987	British
Finance Division		
M. Mendella Head of Division	1 April 1986	Canadian
Ms C. Sappore-Siaw Deputy Head of Division	1 January 1999	Gambian
C. Uriot	1 March 1981	Dutch
T. Komnenovic	1 August 1973	Yugoslav
Documents Division Library of the Court		
A. C. G. M. Eyffinger Librarian, Head of Division	1 February 1988	Dutch
Ms R. S. B. van Megen Deputy Head of Division	13 August 1973	Dutch
M. Schiethart	1 January 1981	Dutch
G. Vooijs	1 January 1981	Dutch
Archives, Indexing and Distribution Division		
S. R. S. Bedi Head of Division	16 September 1985	Indian
Ms M. Doyle Deputy Head of Division	7 July 1998	Irish

Indexing		
Ms K. Han	3 October 1997	Canadian
Distribution		
D. van Rooij	16 April 1975	Dutch
M. Sow	1 August 1985	Senegalese
Administrative Assistants		
Ms M. D. Donnelly	1 January 1985	British
Ms H. Boumlak	16 February 1998	Dutch
Ms A.-M. Curvers	1 September 1996	Belgian
Shorthand, Typewriting and Reproduction Division		
Ms C. Blom-Rakoto Head of Division	5 September 1983	French and Malagasy
Ms H. E. Jeffares Deputy Head of Division	1 October 1993	Irish
Shorthand Typists		
French-speaking		
Ms D. Brouillet-Sourisseau	1 January 1990	French
Ms F. Delbruyère	14 April 1997	Belgian
Ms A. Hooft-Dupont	22 September 1997	Belgian
Ms B. You	4 January 1999	French
English-speaking		
Ms D. Inanli	16 June 1997	British
Ms K. Matheson	1 February 1998	British
Ms A. le Roux	1 September 1998	British
Reproduction		
G. D'Olivo	4 February 1982	Italian and Dutch
E. van Heeswijk	16 August 1993	Dutch
Secretaries of Members of the Court		
Ms M. Page Co-ordinator	1 January 1982	French
Ms J. E. van Hamel-Newall	1 November 1985	British
Ms M. Sullivan	1 January 1990	British
Ms W. Ch. Deelder	1 July 1982	Dutch
Ms J. Devisme	1 January 1986	French
Ms H. H. Muijen	1 June 1987	Dutch
Ms A. Rowland-Moore	1 January 1990	British
Ms M. Cleary-Cogan	1 January 1990	British
Ms D. Bloemendaal	1 April 1990	British
Ms Ch. L. Kamers	8 March 1993	Dutch
Ms M.-F. Teven	1 February 1995	French
Ms D. Okandeji	8 September 1997	French
Ms C. Wainwright	1 January 1999	Australian

Computerization Division		
B. J. van Veen	1 March 1982	Dutch
H. Laeijendecker	1 January 1994	Dutch
Ms M. Hand	1 November 1997	British
General Assistance Division		
I. J. van der Meer Co-ordinator	1 February 1979	Dutch
H. R. L. Castens Registry Clerk	1 June 1999	Dutch
Telephone Operators/Receptionists		
Ms M. Buan	1 October 1991	Dutch
Ms S. Buret	1 June 1999	Dutch
Security Guards		
R. Pijl	1 January 1990	Dutch
J. J. Nelis	1 June 1999	Dutch
Messenger		
D. Driessen	1 April 1982	Dutch

(c) *Staff Regulations for the Registry*

Article 28, paragraph 4, of the Rules of Court states:

> "The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the United Nations Staff Regulations and Staff Rules, and approved by the Court."

On 7 March 1979 the Court adopted new Staff Regulations for the Registry, which are reproduced in Chapter VI of the *I.C.J. Yearbook 1978-1979* (pp. 127-131). In November 1987 these Staff Regulations were amended (see *I.C.J. Yearbook 1988-1989*, pp. 163-164), and again in April 1997 (see *I.C.J. Yearbook 1997-1998*, p. 265).

Before 1979 staff members of the Registry had been subject to Staff Regulations adopted by the President and approved by the Court in March 1947 in accordance with Article 18, paragraph 2, of the 1946 Rules of Court; these Staff Regulations had been amended in February and March 1950 and in June 1951 (see *I.C.J. Yearbook 1946-1947*, pp. 66-71; *I.C.J. Yearbook 1949-1950*, pp. 23-24; *I.C.J. Yearbook 1950-1951*, pp. 25-27).

(d) *Privileges and immunities*

In the Netherlands, in accordance with the terms of an exchange of letters, dated 26 June 1946, between the President of the Court and the Minister for Foreign Affairs of the Netherlands, the Registrar is, in a general way, accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands, and officials of the Registry are treated as officials of comparable rank attached to diplomatic missions at The Hague (*I.C.J. Acts and Documents No. 5*, pp. 201-207).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 207-211) the General Assembly of the United Nations recommended that, on journeys in connection with the exercise of his functions, the Registrar should enjoy all the privileges, immunities and facilities granted to diplomatic envoys and that the officials of the Registry should, in the same circumstances, enjoy such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

This resolution also contains a recommendation calling upon Members of the United Nations to recognize and accept the United Nations laissez-passer issued to the Registrar and officials of the Registry by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations. They are signed by the President of the Court and by the Registrar.

3. Relations with the Public

(a) *Correspondence*

Article 26, paragraph 1 (*a*), of the Rules of Court states that the Registrar shall "be the regular channel for communications to and from the Court".

Consequently, correspondence should be addressed to *The Registrar, International Court of Justice, Peace Palace, 2517 KJ The Hague, Netherlands* (telegraphic address: INTERCOURT THE HAGUE; Telex: 32323; Telefax (3170) 364 99 28; E-mail addresses: webmaster@icj-cij.org (technical comments), information@icj-cij.org (requests for information and for documents) and mail@icj-cij.org (other requests and comments). It should be written in either English or French[1].

A special issue of postage stamps is used by the Netherlands postal administration for the franking of correspondence from the Court.

The Court's telephone number is (3170) 302 23 23.

(b) *Access to the Court's library and archives*

The library of the Court is separate from the library of the Peace Palace, which is situated in the same building but is administered by the Carnegie Foundation. The relations between the two libraries were the subject of an exchange of notes dated 29 and 30 July 1946 (*I.C.J. Yearbook 1946-1947*, pp. 98-99). The public has access to the Peace Palace Library, but the library of the Court is private.

The Court's library keeps the archives of the Nuremberg *International Military Tribunal*, as entrusted to the Court pursuant to a decision of that Tribunal dated 1 October 1946. These archives, which relate solely to the trial of the major war criminals tried in 1945-1946, may be consulted on written application to the Registrar.

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[1] It is not possible for the Registry to give legal advice or to enter into correspondence with private persons concerning any matter at issue between them and the authorities of their own or another country.

Neither the archives of the Court itself nor those of the *Permanent Court of International Justice* are open to the public (Rules, Art. 26, para. 1 (*n*)).

(c) *Information*

Article 26, paragraph 1 (*k*) and (*m*), of the Rules of Court provides that the Registrar shall "deal with enquiries concerning the Court and its work" and "ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media". For the purpose of carrying out this function, the Registrar is assisted by one of the First Secretaries.

The Registrar arranges as he considers necessary for the publication of information concerning the composition, jurisdiction and work of the Court, and the cases before the Court[1].

In order to increase the availability of Court documents and reduce communication costs, the Court decided to develop a website, which was launched on 25 September 1997 in both English and French. At the time of preparation of this *Yearbook*, it featured the full text of the Court's Judgments and Orders since 1996 (posted on the day they were delivered), summaries of past decisions, most of the relevant documents in pending cases (Application or Special Agreement, written and oral pleadings, the Court's decisions, press releases), a list of cases before the Court, some basic documents (United Nations Charter and Statute of the Court), general information on the Court's history and proceedings, and the biographies of the judges, as well as a catalogue of publications. The website can be visited at the following address: http://www.icj-cij.org.

The following documentation, issued separately in English and in French, is available free of charge on application to the Registry:

Press Communiqués;

Background Notes, of which four are available:

- *II* and *II bis*. *Synopsis of cases referred to the International Court of Justice* (*1947-1969* and *1969-1976*);
- *IV*. *Note by the Registry indicating the Rules of Court amended on 10 May 1972*;
- *V*. *Note by the Registry on the Revised Rules of Court* (*1978*);
- *VI*. *Collected unofficial summaries of decisions concerning the law of the sea* (*1946-1986*).

Also obtainable, from the Registry or United Nations Information Centres, are:

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[1] These publications are distinct from the publications of the Court issued by the Registry: see below, Chap. VII, pp. 324-326.

a popular handbook in English and French (1996) on *The International Court of Justice*, the former edition (1986) of which was published in Arabic, Chinese, English, French, Russian, Spanish and German (German edition out of stock). It is distributed in the framework of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law;

unofficial Arabic, Chinese, Russian and Spanish texts of the Rules of Court.

A film on the Court by the United Nations Department of Public Information is also available on application to that Department or to a United Nations Information Centre.

Groups often ask to visit the Registry and have the way the Court functions explained to them. So far as the work of the Court permits, the Registrar accedes to requests of this kind. During the period under review the Court received a great number of groups including diplomats, scholars and academics, judges and representatives of judicial authorities, lawyers and legal professionals, as well as others.

Information on the assistance given members of the public and representatives of the press to help them follow the proceedings in cases before the Court will be found within the following section (pp. 162, 163, 168).

III. PRACTICE IN REGARD TO PROCEDURE[1]

1. General

(a) *Official languages*

The official languages of the Court are French and English (Statute, Art. 39; Rules, Arts. 51, 70 and 71).

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[1] For decisions taken by the Court involving the application of its Statute and Rules in procedural matters, see *I.C.J. Yearbook 1962-1963*, pp. 91-137; *I.C.J. Yearbook 1963-1964*, pp. 99-109; *I.C.J. Yearbook 1964-1965*, pp. 87-88; *I.C.J. Yearbook 1965-1966*, pp. 91-92; *I.C.J. Yearbook 1966-1967*, p. 87; *I.C.J. Yearbook 1967-1968*, pp. 87-92; *I.C.J. Yearbook 1968-1969*, pp. 108-112; *I.C.J. Yearbook 1969-1970*, pp. 113-115; *I.C.J. Yearbook 1970-1971*, pp. 109-113; *I.C.J. Yearbook 1971-1972*, pp. 123-125; *I.C.J. Yearbook 1972-1973*, pp. 136-143; *I.C.J. Yearbook 1973-1974*, pp. 125-129; *I.C.J. Yearbook 1974-1975*, pp. 120-123; *I.C.J. Yearbook 1975-1976*, pp. 118-123; *I.C.J. Yearbook 1976-1977*, pp. 113-114; *I.C.J. Yearbook 1977-1978*, pp. 111-119; *I.C.J. Yearbook 1978-1979*, pp. 124-131; *I.C.J. Yearbook 1979-1980*, pp. 125-129; *I.C.J. Yearbook 1980-1981*, pp. 133-137; *I.C.J. Yearbook 1981-1982*, pp. 141-147; *I.C.J. Yearbook 1982-1983*, pp. 125-126; *I.C.J. Yearbook 1983-1984*, pp. 140-141; *I.C.J. Yearbook 1984-1985*, pp. 173-184; *I.C.J. Yearbook 1985-1986*, pp. 164-172; *I.C.J. Yearbook 1986-1987*, pp. 158-163; *I.C.J. Yearbook 1987-1988*, pp. 146-151; *I.C.J. Yearbook 1988-1989*, pp. 159-164; *I.C.J. Yearbook 1989-1990*, pp. 157-162; *I.C.J. Yearbook 1990-1991*, pp. 174-182; *I.C.J. Yearbook 1991-1992*, pp. 198-204; *I.C.J. Yearbook 1992-1993*, pp. 242-248; *I.C.J. Yearbook 1993-1994*, pp. 209-216; *I.C.J. Yearbook 1994-1995*, pp. 199-206; *I.C.J. Yearbook 1995-1996*, pp. 224-240; *I.C.J. Yearbook 1996-1997*, pp. 197-202; *I.C.J. Yearbook 1997-1998*, pp. 249-272; and pp. 288-309 in Chapter VI below.

(b) *Official communications*

In all cases submitted to the Court, communications and documents for the Court are delivered to the Registrar and he is the regular channel for communications or notifications from the Court (Rules, Art. 26, para. 1, and Art. 30; Instructions for the Registry, Arts. 3, 11 and 13).

Communications in a case which are intended for a State party thereto are sent to its agent at the Hague address it designates for the purpose (Rules, Art. 40, para. 1).

For communications with other States, the Registrar requests the foreign ministers of States entitled to appear before the Court to indicate the channel through which their governments would wish to receive such communications. The channel of communication indicated is usually the Embassy in The Hague or the Ministry of Foreign Affairs of the State in question.

For public international organizations, the Registrar addresses the communications of the Court to the Director-General or Secretary-General of the organization as the case may be.

(c) *Minutes*

The Registrar is present at all sittings and meetings of the Court and is responsible for drawing up the minutes. After being signed by the President and the Registrar, these minutes are filed in the archives (Statute, Art. 47; Rules, Art. 21, Art. 26, para. 1 *(f)*-*(i)*, and Art. 71; Instructions for the Registry, Art. 19).

(d) *General List*

The Registrar prepares and keeps up to date a General List of cases submitted to the Court (Rules, Art. 26, para. 1 *(b)*, and Art. 38, para. 5; Instructions for the Registry, Art. 6, para. 1, and Art. 46, para. 3).

Extracts from the General List are supplied by the Registry on request, in the form of *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976)*.

(For the General List of the *Permanent Court of International Justice*, see *P.C.I.J., Series E, No. 16*, pp. 92-147.)

2. *Procedure in Contentious Cases*

(a) *Institution of proceedings and appointment of agents*

As soon as proceedings are instituted (see Chap. III, pp. 77-79, above), the special agreement or the application, filed in one of the two official languages of the Court, is translated and printed in a bilingual edition by the Registry, then communicated to all concerned and to the States entitled to appear before the Court (Statute, Art. 40; Rules, Art. 38, paras. 4 and 5; Art. 39, para. 1, and Art. 42).

The Registrar arranges for the publication of a communiqué informing the general public and the press that proceedings have been instituted. Copies of the special agreement or application may be obtained on request.

The party which files a document instituting proceedings informs the Court at the same time of the name of the agent who will be its representative in the proceedings and take steps on its behalf; the other party then appoints its agent as soon as possible (Statute, Art. 42; Rules, Art. 40). A party may also appoint a co-agent, a deputy-agent or an additional agent. Agents, and counsel and advocates also, enjoy such privileges and immunities as may be required for the independent exercise of their duties (Statute, Art. 42, para. 3; *I.C.J. Acts and Documents No. 5*, pp. 205 and 209).

The President, who is required to ascertain the views of the parties on questions of procedure, summons the agents to meet him as soon as possible after their appointment and whenever necessary thereafter (Rules, Art. 31).

(b) *Written proceedings*

The written proceedings comprise the filing of pleadings within time-limits fixed in orders made by the Court or, if it is not sitting, the President; the pleadings are in principle confined to a Memorial and a Counter-Memorial, though the Court may if it thinks fit authorize or direct that there be a Reply and a Rejoinder (Statute, Art. 43; Rules, Arts. 44-46 and 48; Instructions for the Registry, Art. 14).

The party's submissions are set out in each pleading (Rules, Art. 49).

The agent of the party filing the pleading supplies the Registry (Statute, Art. 43, paras. 3 and 4; Rules, Arts. 50-52) with the following:

- an original copy of the pleading, signed by him, to which is annexed a certified copy of any relevant document adduced in support of the contentions put forward;
- an English or French translation, certified by him to be accurate, of any part of a pleading or annexed document submitted in another language;
- a copy, certified by him, of the pleading and annexed documents, for communication to the other party;
- 125 further copies of the pleading and annexed documents;
- a diskette of any pleading prepared by electronic means;
- in the case of any document of which only parts are relevant and only necessary extracts have been annexed to the pleading, a copy of the whole document.

The format for the pleadings and annexes is 19 × 26 cm. If they are submitted in printed form, which is not compulsory, it is recommended that the Court's Typographical Rules (supplied by the Registry on request) be complied with. If the composition is entrusted to one of the printers who work for the Court, so that it is not necessary to re-compose the texts when they come to be used in the Court's series *Pleadings, Oral Arguments, Documents* (see *(e)* below), the Court will at that stage reimburse half the cost, at the normal rate, of the composition of the pleading itself and of such annexes as are to be reproduced in the *Pleadings* series (but excluding any text in a language other than English or French or entirely reproduced from another printed pleading).

The Registry usually translates, for the judges, pleadings and annexed documents, filed in one of the official languages of the Court, into the other official language (Rules, Art. 26, para. 1 (*g*)).

The Registrar arranges for the publication of communiqués giving information concerning the course of the written proceedings. Moreover, the Court may, after ascertaining the views of the parties, communicate the pleadings on request to any State entitled to appear before the Court. It may also, after ascertaining the parties' views, make the pleadings available to the general public and the press on or after the opening of the oral proceedings (Rules, Art. 53); this is generally done by depositing copies in a number of Information Centres and libraries, including the Peace Palace Library. The pagination of the pleadings and annexed documents which may thus be made accessible is provisional in character. They are not given their final pagination until they are published in the *I.C.J. Pleadings* series (see (*e*) below).

(c) *Oral proceedings*

Upon the closure of the written proceedings, a case is ready for hearing. The opening date of the oral proceedings is fixed by the Court or, if it is not sitting, the President (Rules, Art. 54). Public sittings are held at the seat of the Court, usually from 10 a.m. to 1 p.m. on weekdays. They are devoted to hearing the arguments of counsel and such evidence of witnesses or experts as the parties may call; the Court itself may also arrange for a witness to be heard, entrust any individual, body or organization with the task of giving an expert opinion or decide on an inspection *in loco*[1] (Statute, Arts. 43-46 and 48-51; Rules, Arts. 57-68; Instructions for the Registry, Art. 20).

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[1] In the *Corfu Channel* (*United Kingdom* v. *Albania*) case, the Court heard witnesses and experts presented by each of the Parties, appointed experts by Order and prescribed an enquiry on the spot. In the *Temple of Preah Vihear* (*Cambodia* v. *Thailand*) case, it heard witnesses and experts presented by each of the Parties. In the *South West Africa* (*Ethiopia* v. *South Africa; Liberia* v. *South Africa*) cases, it heard witnesses and experts presented by one Party, but did not accede to a request concerning an inspection *in loco*. In *Continental Shelf* (*Tunisia/Libyan Arab Jamahiriya*), it heard an expert presented by one Party. The Chamber constituted in the *Delimitation of the Maritime Boundary in the Gulf of Maine Area* (*Canada/United States of America*) case heard an expert presented by one Party and itself appointed, by Order, at the request of the Parties and in accordance with the Special Agreement concluded between them, a technical expert to assist it in its work. In the case concerning the *Continental Shelf* (*Libyan Arab Jamahiriya/Malta*), the Court heard experts presented by each of the Parties. In the case concerning *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*) it heard witnesses presented by one Party. The Chamber constituted in the case concerning *Elettronica Sicula S.p.A.* (*ELSI*) (*United States of America* v. *Italy*) heard witnesses presented by one of the Parties and experts presented by each of them. In the case concerning the *Land, Island and Maritime Frontier Dispute* (*El Salvador/Honduras: Nicaragua intervening*) the Court heard a witness presented by one of the Parties, but did not accede to a request concerning an inspection *in loco*. The Court did pay a visit to the site of the hydroelectric dam project at Gabčikovo-Nagymaros in the case concerning *Gabčikovo-Nagymaros Project* (*Hungary/Slovakia*).

The Court settles the order in which the parties are heard, the number of counsel who will address the Court, and the method of handling the evidence (Rules, Art. 58, para. 2). It is customary for the parties to present their arguments in the order in which their pleadings have been deposited or, in the case of proceedings instituted by special agreement, in the order laid down by the Court after consultations with the agents of the parties. Speeches and statements are normally made in one of the Court's two official languages and are (simultaneously) interpreted into the other; arrangements may be made for some other language to be used (Statute, Art. 39; Rules, Art. 70; Instructions for the Registry, Art. 17).

When the Court or a judge puts a question to the agents, counsel and advocates, the answer may be given either immediately or within a time-limit fixed by the President; if given in writing it is communicated to the other party (Rules, Art. 61, paras. 2-4, and Art. 72).

A provisional verbatim record of each public sitting is drawn up by the Registry in the official language used, and translated into the other; copies in the original official language are then communicated to the parties and to the witnesses and experts in order that mistakes may be corrected under the supervision of the Court (Statute, Art. 47; Rules, Art. 71). A period of 24 hours is usually allowed for the submission of corrections.

In the course of the hearings each party reads out its final submissions and hands the Registrar copies of the text (Rules, Art. 60, para. 2). The filing of new documents after closure of the written proceedings is permissible only with the other party's consent or the authorization of the Court; such documents must be filed in the same number of copies as the pleadings (see (*b*) above); the Registrar transmits them to the other party with a request for observations. No reference may be made to the contents of any document which has not been duly produced, unless the document is part of a publication readily available (Statute, Art. 52; Rules, Art. 56).

The Registrar issues communiqués giving all necessary information as to the dates of the hearings (Instructions for the Registry, Art. 12). Admission cards are issued to members of the diplomatic corps and to representatives of the press and also to any person who makes application either in writing or in person at the Peace Palace on the occasion of a hearing. Photographs may be taken before the opening of hearings. Filming for cinema or television purposes is, however, subject to special authorization. There is a Press Room within the Peace Palace, and also a Post Office where a number of telephones are available for the use of journalists. As soon as the provisional, uncorrected verbatim records of each hearing have been duplicated they are made available to representatives of the press, though neither the text nor the pagination is final at that stage (see (*e*) below).

(d) *Deliberations*

After the close of the oral proceedings, the Court withdraws to deliberate in private and to prepare a judgment. The deliberations of the Court are conducted *in camera* and remain confidential. This applies to all aspects of the deliberations, including the schedule of meetings (Statute, Arts. 54-55; Rules, Arts. 19-21; Instructions for the Registry, Art. 16).

The manner in which the Court conducts its deliberations is governed by a resolution concerning the internal judicial practice of the Court, the most recent version of which was adopted on 12 April 1976 (see *I.C.J. Acts and Documents No. 3*, pp. 165-173).

(2) Judgment

The judgment is read out at a public sitting for which similar arrangements are made as for a hearing in open court, in particular with regard to the admission of the public and the assistance provided to representatives of the press (see [illegible] above).

The judgment is prepared in both official languages, of which one is indicated as authoritative (Statute, Art. 39; Rules, Art. 96). If it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the judgment indicates the names of the judges constituting the majority (Statute, Arts. 56-58; Rules, Arts. 94 and 95).

Three original copies of the judgment are signed by the President and the Registrar and are then sealed: one is placed in the archives of the Court and the others are handed to the parties (Rules, Art. 95, para. 3; Instructions for the Registry, Art. 21).

Immediately after the public reading, copies of a special duplicated *tirage* are placed at the disposal of the judges and the representatives of the parties. At the same time an unofficial communiqué summarizing the decision is issued on the authority of the Registrar.

As soon as possible, the printed text of the judgment becomes available as a separate fascicle in the *I.C.J. Reports* series, which is sent to States entitled to appear before the Court and is placed on sale. Subsequently, the documentation of the case is published in one or more printed volumes of the series entitled *I.C.J. Pleadings, Oral Arguments, Documents*. It is these printed texts (see Chap. VII, pp. 348-355, below) which should be used for all purposes of quotation or citation.

(3) Expenses and costs

The expenses of the Court, including amounts payable to witnesses or experts appearing at the instance of the Court (Rules, Art. 68; Instructions for the Registry, Art. 18), are borne out of the United Nations budget; if a party to a case does not contribute to the United Nations budget, the Court itself fixes the amount payable by that party as a contribution towards the expenses of the Court for the case (see Chap. VIII, p. 336, below).

Each party bears its own costs, unless the Court makes an order in favour of a party for the payment of the costs (Statute, Art. 64; Rules, Art. 95, para. 1, and Art. 97).

In addition, there exists a Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, established on 1 November 1989[1]. The Fund is designed to encourage States to settle their disputes peaceably by submitting them to the Court. To be eligible for funding, a State must be entitled to appear before the Court (see Chap. III, pp. 69-76, for an explanation of which States are so entitled) and demonstrate a need for financial assistance. In addition, the dispute must be submitted to the Court by Special Agreement.

3. *Occasional Rules in Contentious Cases*

(a) *Provisional measures*

The Court has the power to indicate provisional measures (Statute, Art. 41). A request for such measures is treated as a matter of urgency, and the Court's decision is given in an order (Rules, Arts. 73-78)[2].

(b) *Joinder of proceedings*

The Court may direct that the proceedings in two or more cases be joined (Rules, Art. 47). It does this by means of an order[3].

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[1] Cf. United Nations doc. A/44/PV.43 (1989).

[2] Such provisional measures have been requested in the following 31 cases: *Anglo-Iranian Oil Co.* (*United Kingdom v. Iran*); *Interhandel* (*Switzerland v. United States of America*); *Fisheries Jurisdiction* (*United Kingdom v. Iceland*) (*Federal Republic of Germany v. Iceland*); *Nuclear Tests* (*Australia v. France*) (*New Zealand v. France*); *Trial of Pakistani Prisoners of War* (*Pakistan v. India*); *Aegean Sea Continental Shelf* (*Greece v. Turkey*); *United States Diplomatic and Consular Staff in Tehran* (*United States of America v. Iran*); *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*); *Frontier Dispute* (*Burkina Faso/Republic of Mali*) (case referred to a Chamber); *Border and Transborder Armed Actions* (*Nicaragua v. Honduras*) (in this case the request was withdrawn); *Arbitral Award of 31 July 1989* (*Guinea-Bissau v. Senegal*); *Passage through the Great Belt* (*Finland v. Denmark*); *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya v. United Kingdom*) (*Libyan Arab Jamahiriya v. United States of America*); *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina v. Yugoslavia*) (in this case two requests were made by Bosnia and Herzegovina and one by Yugoslavia); *Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon v. Nigeria*); *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests* (*New Zealand v. France*) *Case*; *Vienna Convention on Consular Relations* (*Paraguay v. United States of America*); *LaGrand* (*Germany v. United States of America*); and in the ten cases concerning *Legality of Use of Force* (*Yugoslavia v. Belgium*) (*Yugoslavia v. Canada*) (*Yugoslavia v. France*) (*Yugoslavia v. Germany*) (*Yugoslavia v. Italy*) (*Yugoslavia v. Netherlands*) (*Yugoslavia v. Portugal*) (*Yugoslavia v. Spain*) (*Yugoslavia v. United Kingdom*) and (*Yugoslavia v. United States of America*).

[3] Proceedings were joined in the following cases: *South West Africa* (*Ethiopia v. South Africa; Liberia v. South Africa*); *North Sea Continental Shelf* (*Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands*).

(c) *Preliminar*[illegible]*bjections*

Preliminary objections (see Chap. III, p. 79, above) must be filed within the time-limit fixed for the filing of the Counter-Memorial (Rules, Art. 79). They suspend the proceedings on the merits and may be answered by the observations and submissions of the opposing party, to be filed within a time-limit fixed by an order. Oral proceedings on the objections ensue, the party which raised them being called upon to speak first. The Court gives its decision on the objections in a judgment; if it dismisses them, the proceedings on the merits are resumed from the point of interruption; they are likewise resumed if it declares that the objections do not possess an exclusively preliminary character[1]. The Court may also give effect to an agreement between the parties that objections should be heard and determined within the framework of the merits[2].

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[1] The Court gave its decision on the preliminary objections raised in the following 20 cases: *Corfu Channel* (*United Kingdom* v. *Albania*); *Ambatielos* (*Greece* v. *United Kingdom*); *Anglo-Iranian Oil Co.* (*United Kingdom* v. *Iran*); *Nottebohm* (*Liechtenstein* v. *Guatemala*); *Monetary Gold Removed from Rome in 1943* (*Italy* v. *France, United Kingdom and United States of America*); *Certain Norwegian Loans* (*France* v. *Norway*); *Right of Passage over Indian Territory* (*Portugal* v. *India*); *Interhandel* (*Switzerland* v. *United States of America*); *Aerial Incident of 27 July 1955* (*Israel* v. *Bulgaria*); *Temple of Preah Vihear* (*Cambodia* v. *Thailand*); *South West Africa* (*Ethiopia* v. *South Africa*; *Liberia* v. *South Africa*); *Northern Cameroons* (*Cameroon* v. *United Kingdom*); *Barcelona Traction, Light and Power Company, Limited* (*New Application: 1962*) (*Belgium* v. *Spain*); *Elettronica Sicula S.p.A.* (*ELSI*) (*United States of America* v. *Italy*); *Certain Phosphate Lands in Nauru* (*Nauru* v. *Australia*); *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya* v. *United Kingdom*) (*Libyan Arab Jamahiriya* v. *United States of America*); *Oil Platforms* (*Islamic Republic of Iran* v. *United States of America*); *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina* v. *Yugoslavia*); *Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon* v. *Nigeria*). In other cases the Court was not called upon to give a decision on the preliminary objections, either because they were withdrawn (*Rights of Nationals of the United States of America in Morocco* (*France* v. *United States of America*)) or as the result of a discontinuance (*Aerial Incident of 27 July 1955* (*United States of America* v. *Bulgaria*); *Barcelona Traction, Light and Power Company, Limited* (first application) (*Belgium* v. *Spain*); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient* (*France* v. *Lebanon*); *Aerial Incident of 3 July 1988* (*Islamic Republic of Iran* v. *United States of America*)). The Court also dealt with questions of jurisdiction or admissibility in the following 12 cases: *Appeal Relating to the Jurisdiction of the ICAO Council* (*India* v. *Pakistan*); *Fisheries Jurisdiction* (*United Kingdom* v. *Iceland*) (*Federal Republic of Germany* v. *Iceland*); *Nuclear Tests* (*Australia* v. *France*) (*New Zealand* v. *France*); *Aegean Sea Continental Shelf* (*Greece* v. *Turkey*); *United States Diplomatic and Consular Staff in Tehran* (*United States of America* v. *Iran*); *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua* v. *United States of America*); *Border and Transborder Armed Actions* (*Nicaragua* v. *Honduras*); *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar* v. *Bahrain*); *East Timor* (*Portugal* v. *Australia*); and *Fisheries Jurisdiction* (*Spain* v. *Canada*). The Court did not deal with questions of jurisdiction or admissibility raised in the case concerning the *Trial of Pakistani Prisoners of War* (*Pakistan* v. *India*) as the result of a discontinuance.

[2] This was done in the cases concerning *Elettronica Sicula S.p.A.* (*ELSI*) (*United States of America* v. *Italy*) and *East Timor* (*Portugal* v. *Australia*). Preliminary objections were joined to the merits under the pre-1972 Rules of Court after agreement between the Parties in the case concerning *Certain Norwegian Loans* (*France* v. *Norway*) and by decision of the Court in the following two cases: *Right of Passage over Indian Territory* (*Portugal* v. *India*); *Barcelona Traction, Light and Power Company, Limited* (*New Application: 1962*) (*Belgium* v. *Spain*).

(d) *Counter-claims*

Counter-claims may be presented if they are directly connected with the subject-matter of the claim of the other party and come within the jurisdiction of the Court. They are to be made by a party in its Counter-Memorial, as part of the submissions. In case of doubt, it is for the Court to decide whether a counter-claim is admissible and shall form part of the proceedings (Rules, Art. 80)[1].

(e) *Intervention; presentation of information*

A third State may request to be permitted to intervene if it considers that it has an interest of a legal nature which may be affected by the decision in the case; it is for the Court to decide upon such a request (Statute, Art. 62; Rules, Arts. 81 and 83-85)[2].

If the dispute relates to the construction of a convention to which States other than those concerned in the case are parties, these States are notified forthwith and have the right to intervene in the proceedings (Statute, Art. 63; Rules, Arts. 43, 82-84 and 86)[3].

Similarly, public international organizations may, at the request of the Court or a party or on their own initiative, furnish the Court with information relevant to cases before it; whenever the construction of their constituent instruments or of a convention adopted thereunder is in question, they are notified (Statute, Art. 34, paras. 2 and 3; Rules, Art. 69).

(f) *Default; settlement; discontinuance*

If one of the parties does not appear before the Court or fails to defend its case, the other party may call upon the Court to decide in favour of its claim (Statute, Art. 53)[1].

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[1] Counter-claims were made by the respondent States, and admitted by the Court, in the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Oil Platforms (Islamic Republic of Iran v. United States of America)* and *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*.

[2] Permission to intervene was applied for in the *Nuclear Tests* cases *(Australia v. France) (New Zealand v. France)*, in the cases concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)*, in the *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the* Nuclear Tests (New Zealand v. France) *Case* (In that case, several States filed a document entitled "Application for Permission to Intervene under Article 62/Declaration of Intervention under Article 63") and in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*.

[3] A third State intervened in the *Haya de la Torre (Colombia v. Peru)* case and a Declaration of Intervention was submitted in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*. (See also footnote 1 above.)

The Court, or the President if the Court is not sitting, may, by way of an order, officially record the conclusion of a settlement or a discontinuance (Rules, Arts. 88 and 89)[2].

(g) *Execution, interpretation or revision of judgments*

The judgments of the Court are binding, final and without appeal (Charter, Art. 94, para. 1; Statute, Arts. 59-60; Rules, Art. 94, para. 2). The parties may, however, make a request for interpretation or, in certain circumstances, for revision of a judgment (see above, Chap. III, pp. 79-80). The decision of the Court on such requests is given in the form of a judgment (Statute, Arts. 60-61; Rules, Arts. 98-100)[3,4].

Article 94, paragraph 2, of the Charter of the United Nations states that, if any party to a case fails to perform the obligations incumbent upon it under a judgment, the other party may have recourse to the Security Council.

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[1] A number of judgments and orders were delivered in the absence of one of the parties: *Corfu Channel (United Kingdom v. Albania) (Assessment of Amount of Compensation); Anglo-Iranian Oil Co. (United Kingdom v. Iran) (Interim Protection); Nottebohm (Liechtenstein v. Guatemala) (Preliminary Objection); Fisheries Jurisdiction (United Kingdom v. Iceland) (Federal Republic of Germany v. Iceland) (Interim Protection, Jurisdiction of the Court* and *Merits); Nuclear Tests (Australia v. France) (New Zealand v. France) (Interim Protection* and *Second Phase); Trial of Pakistani Prisoners of War (Pakistan v. India) (Interim Protection); Aegean Sea Continental Shelf (Greece v. Turkey) (Interim Protection* and *Jurisdiction of the Court); United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran) (Provisional Measures* and *Merits); Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America) (Merits); Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain) (Jurisdiction and Admissibility).*

[2] The following 14 cases ended in discontinuance: *Protection of French Nationals and Protected Persons in Egypt (France v. Egypt); Electricité de Beyrouth Company (France v. Lebanon); Aerial Incident of 27 July 1955 (United States of America v. Bulgaria) (United Kingdom v. Bulgaria); Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)* (first application); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. Lebanon); Trial of Pakistani Prisoners of War (Pakistan v. India); Border and Transborder Armed Actions (Nicaragua v. Costa Rica); Border and Transborder Armed Actions (Nicaragua v. Honduras); Passage through the Great Belt (Finland v. Denmark); Certain Phosphate Lands in Nauru (Nauru v. Australia); Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. Senegal); Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. United States of America)*; and *Vienna Convention on Consular Relations (Paraguay v. United States of America)*. Furthermore, the cases concerning *United States Diplomatic and Consular Staff in Tehran (United States of America v. Iran)* and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)* ended in discontinuance as regarded the question of reparation which the Judgment had left to be settled.

[3] The Court gave a decision on a request for interpretation of its Judgment in the case concerning *Asylum (Colombia/Peru)*, and of its Judgment on preliminary objections in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria*. See also p. 79, footnote 1, and p. 80, footnote 1, above.

[4] The Court gave a decision on an application for revision and interpretation submitted by Tunisia in connection with its Judgment in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

(b) *Special reference to the Court*

When a matter which has been the subject of proceedings before some other international body is brought before the Court, the provisions of the Statute and of the Rules apply (Rules, Art. 87)[1]

4. Procedure in Advisory Cases

In addition to the Rules of Court which are expressly applicable to proceedings in regard to advisory opinions, the Court is guided by the provisions which apply in contentious proceedings (Statute, Art. 68; Rules, Art. 102). It may thus be led to apply the articles of the Statute concerning judges *ad hoc* (see Chap. I, pp. 13-18, above).

The practical information given concerning the course of the procedure in contentious cases (see under 2, above) applies *mutatis mutandis* to the procedure in regard to advisory opinions, in particular as regards arrangements for the public and the representatives of the press.

(a) *Request*

Notice of a request for an advisory opinion (see Chap. III, pp. 80-81, above) is addressed to the Court by the Secretary-General of the United Nations or the chief administrative officer of the organization authorized to make the request; all documents likely to throw light upon the question are to be transmitted at the same time as the request or as soon as possible thereafter (Statute, Art. 65, para. 2; Rules, Art. 104).

Notice of the request for an advisory opinion is given to all States entitled to appear before the Court (Statute, Art. 66, para. 1).

In addition, the Court gives the States and international organizations considered likely to be able to furnish information on the question an opportunity to submit their views in writing or orally, or both (Statute, Art. 66, paras. 2-4).

(b) *Written and oral proceedings*

A request for an opinion usually gives rise to written proceedings followed by oral proceedings (Statute, Art. 66; Rules, Arts. 105 and 106).

In the case of urgency, the Court takes all necessary steps to accelerate the procedure (Rules, Art. 103)[2]

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[1] The Court was seised of an *Appeal Relating to the Jurisdiction of the ICAO Council (India v. Pakistan)* in the case of that name.

[2] The Court decided to accelerate the procedure in accordance with Article 103 of the Rules in the case concerning the *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*.

(c) *Deliberations*

The deliberations are conducted in the same manner as in contentious cases (Rules, Arts. 19-21 and 107; resolution concerning the Internal Judicial Practice of the Court, Art. 10).

(d) *Advisory opinion*

The advisory opinion is read in open Court; if it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the advisory opinion indicates the names of the judges constituting the majority (Statute, Art. 67; Rules, Arts. 107 and 108).

One of the original copies of the advisory opinion is transmitted to the body which made the request (Rules, Art. 109).

The opinions given by the Court are purely advisory in character. The body requesting the opinion may however be committed to accepting it as binding by the terms of the instrument under which it is authorized to request advisory opinions of the Court.

IV. Occasional Functions Entrusted to the President of the International Court of Justice

1. *International Instruments Providing for Appointment of Arbitrators, etc.*

There are many international instruments which provide that in certain eventualities the President of the Court may be requested by the contracting parties to appoint arbitrators, umpires, members of conciliation commissions, etc. Requests of this sort have always been acceded to.

States proposing to insert such a provision in a treaty may consult the President as to his willingness to accept such a task, and submit the draft provision to him. This frequently provides that, if the President is of the nationality of one of the parties to the dispute, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

Such a provision is found, for instance, in bilateral agreements relating to air transport, social security, reparations or guarantees, loans, technical co-operation and the protection of investments; in multilateral treaties; in conventions or agreements concerning the constitution, status or privileges and immunities of international organizations; and in agreements or contracts concluded between States and international organs.

2. *Other Requests for Appointment of Arbitrators*

The President of the Court is sometimes requested to appoint arbitrators under the terms of contracts concluded between a State and a corporation or between corporations. Such requests are generally acceded to.

In such cases, too, the usual practice is to consult the President in advance and to submit the draft contract to him. It is usually provided that if the President is of the same nationality as one of the parties to the contract, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

3. Other Appointments

The President has also at times been requested by States or international organizations to appoint persons to fill other offices.

Such appointments are, for instance, provided for in texts such as Article 12 of the Protocol of 23 June 1953 for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, or Article 4 of the Regulations for the execution of the Convention of 14 May 1954 for the protection of cultural property in the event of armed conflict or, again, Rule 109.1 (*a*) of the Staff Rules of the United Nations and Regulation 9.1.1 of the Staff Regulations of the United Nations Educational, Scientific and Cultural Organization.

CHAPTER VI

WORK OF THE COURT IN 1998-1999

During the period under review the Court was seised of the following 18 new contentious cases: *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon *v.* Nigeria), Preliminary Objections (*Nigeria* v. *Cameroon*); *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia/Malaysia*); *Ahmadou Sadio Diallo* (*Republic of Guinea* v. *Democratic Republic of the Congo*); *LaGrand* (*Germany* v. *United States of America*); *Legality of Use of Force* (*Yugoslavia* v. *Belgium*) (*Yugoslavia* v. *Canada*) (*Yugoslavia* v. *France*) (*Yugoslavia* v. *Germany*) (*Yugoslavia* v. *Italy*) (*Yugoslavia* v. *Netherlands*) (*Yugoslavia* v. *Portugal*) (*Yugoslavia* v. *Spain*) (*Yugoslavia* v. *United Kingdom*) and (*Yugoslavia* v. *United States of America*); *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo* v. *Burundi*) (*Democratic Republic of the Congo* v. *Uganda*) and (*Democratic Republic of the Congo* v. *Rwanda*) and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Croatia* v. *Yugoslavia*). The Court also received a request for an Advisory Opinion from the Economic and Social Council: *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*.

On 16 February 1999, Eritrea filed an Application in a dispute with Ethiopia concerning the alleged violation of the premises and of the staff of Eritrea's diplomatic mission in Addis Ababa. In filing its Application, Eritrea stated that "it does not appear that Ethiopia has at the present time given its consent for the Court to be seised of jurisdiction in this case". It invited Ethiopia to accept that jurisdiction. Eritrea's Application, which was accompanied by a request for the indication of provisional measures, was transmitted to the Government of Ethiopia. However, as Ethiopia, as of 31 July 1999, had not given its consent to the Court's jurisdiction, the Court has not taken any action in the proceedings.

In the case concerning *Gabčikovo-Nagymaros Project* (*Hungary/Slovakia*), Slovakia filed a request for an additional Judgment. In the case concerning *LaGrand* (*Germany* v. *United States of America*) and in the ten cases concerning *Legality of Use of Force* (*Yugoslavia* v. *Belgium*) (*Yugoslavia* v. *Canada*) (*Yugoslavia* v. *France*) (*Yugoslavia* v. *Germany*) (*Yugoslavia* v. *Italy*) (*Yugoslavia* v. *Netherlands*) (*Yugoslavia* v. *Portugal*) (*Yugoslavia* v. *Spain*) (*Yugoslavia* v. *United Kingdom*) and (*Yugoslavia* v. *United States of America*), requests for the indication of provisional measures were made by the respective applicant States. In the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon* v. *Nigeria*), Nigeria, in its Counter-Memorial, presented counter-claims; Equatorial Guinea made a request for permission to intervene. The case concerning the *Vienna Convention on Consular Relations* (*Paraguay* v. *United States of America*) was discontinued at the request of Paraguay and removed from the List.

The Court held 44 public sittings and a great number of private meetings. It delivered a Judgment, on the Court's jurisdiction, in the case concerning *Fisheries Jurisdiction* (*Spain* v. *Canada*), as well as a Judgment on the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (*Nigeria* v. *Cameroon*). It rendered an Advisory Opinion in the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*. The Court further made Orders on the requests for the indication of provisional measures made by Germany in the case concerning *LaGrand* (*Germany* v. *United States of America*) and by Yugoslavia in the cases concerning the *Legality of Use of Force* (*Yugoslavia* v. *Belgium*) (*Yugoslavia* v. *Canada*) (*Yugoslavia* v. *France*) (*Yugoslavia* v. *Germany*) (*Yugoslavia* v. *Italy*) (*Yugoslavia* v. *Netherlands*) (*Yugoslavia* v. *Portugal*) (*Yugoslavia* v. *Spain*) (*Yugoslavia* v. *United Kingdom*) and (*Yugoslavia* v. *United States of America*). It made an Order on the counter-claims presented by Nigeria in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon* v. *Nigeria*). The Court also made Orders regarding the conduct of proceedings in the cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain* (*Qatar* v. *Bahrain*); *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya* v. *United Kingdom*) and (*Libyan Arab Jamahiriya* v. *United States of America*); *Oil Platforms* (*Islamic Republic of Iran* v. *United States of America*); *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina* v. *Yugoslavia*); *Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon* v. *Nigeria*); *Vienna Convention on Consular Relations* (*Paraguay* v. *United States of America*); *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia*/*Malaysia*), *LaGrand* (*Germany* v. *United States of America*); and *Legality of Use of Force* (*Yugoslavia* v. *Belgium*) (*Yugoslavia* v. *Canada*) (*Yugoslavia* v. *France*) (*Yugoslavia* v. *Germany*) (*Yugoslavia* v. *Italy*) (*Yugoslavia* v. *Netherlands*) (*Yugoslavia* v. *Portugal*) (*Yugoslavia* v. *Spain*) (*Yugoslavia* v. *United Kingdom*) and (*Yugoslavia* v. *United States of America*).

The Senior Judge, Acting President, made Orders for the conduct of the proceedings in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (*Libyan Arab Jamahiriya* v. *United Kingdom*) and

(*Libyan Arab Jamahiriya* v. *United States of America*) and in the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*.

I. CASES BEFORE THE COURT

A. CONTENTIOUS CASES

1. *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*

On 8 July 1991, the Government of the State of Qatar filed in the Registry of the Court an Application instituting proceedings against the Government of the State of Bahrain

> "in respect of certain existing disputes between them relating to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States".

Qatar claimed that its sovereignty over the Hawar islands was well founded on the basis of customary international law and applicable local practices and customs. It had therefore continuously opposed a decision announced by the British Government in 1939, during the time of the British presence in Bahrain and Qatar (which came to an end in 1971), that the islands belonged to Bahrain. This decision was, in the view of Qatar, invalid, beyond the power of the British in relation to the two States, and not binding on Qatar.

With regard to the shoals of Dibal and Qit'at Jaradah, a further decision of the British Government in 1947 to delimit the sea-bed boundary between Bahrain and Qatar purported to recognize that Bahrain had "sovereign rights" in the areas of those shoals. In that decision the view was expressed that the shoals should not be considered to be islands having territorial waters. Qatar had claimed and continued to claim that such sovereign rights as existed over the shoals belonged to Qatar; it also considered however that these were shoals and not islands. Bahrain claimed in 1964 that Dibal and Qit'at Jaradah were islands possessing territorial waters, and belonged to Bahrain, a claim rejected by Qatar.

With regard to the delimitation of the maritime areas of the two States, in the letter informing the Rulers of Qatar and Bahrain of the 1947 decision it was stated that the British Government considered that the line divided "in accordance with equitable principles" the sea-bed between Qatar and Bahrain, and that it was a median line based generally on the configuration of the coastline of the Bahrain main island and the peninsula of Qatar. The letter further specified two exceptions. One concerned the status of the shoals; the other that of the Hawar islands.

Qatar stated that it did not oppose that part of the delimitation line which the British Government stated was based on the configuration of the coastlines of the two States and was determined in accordance with equitable principles. It had been rejecting and still rejected the claim made in 1964 by Bahrain (which had refused to accept the above-mentioned delimitation by the British Government) of a new line delimiting the sea-bed boundary of the two States. Qatar based its claims with respect to delimitation on customary international law and applicable local practices and customs.

The State of Qatar therefore requested the Court:

> "I. To adjudge and declare in accordance with international law
>
> (A) that the State of Qatar has sovereignty over the Hawar islands; and
>
> (B) that the State of Qatar has sovereign rights over Dibal and Qit'at Jaradah shoals;
>
> and
>
> II. With due regard to the line dividing the sea-bed of the two States as described in the British decision of 23 December 1947, to draw in accordance with international law a single maritime boundary between the maritime areas of sea-bed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain."

In the Application, Qatar founded the jurisdiction of the Court upon certain agreements between the Parties stated to have been concluded in December 1987 and December 1990, the subject and scope of the commitment to jurisdiction being determined, according to Qatar, by a formula proposed by Bahrain to Qatar on 26 October 1988 and accepted by Qatar in December 1990.

By letters addressed to the Registrar of the Court on 14 July 1991 and 18 August 1991, Bahrain contested the basis of jurisdiction invoked by Qatar.

At a meeting held on 2 October 1991 to enable the President of the Court to ascertain their views, the Parties reached agreement as to the desirability of the proceedings being initially devoted to the questions of the Court's jurisdiction to entertain the dispute and the admissibility of the Application. The President accordingly made, on 11 October 1991, an Order (*I.C.J. Reports 1991*, p. 50) deciding that the written proceedings should first be addressed to those questions; in the same Order he fixed the following time-limits in accordance with a further agreement reached between the Parties at the meeting of 2 October: 10 February 1992 for the Memorial of Qatar, and 11 June 1992 for the Counter-Memorial of Bahrain. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

By an Order of 26 June 1992 (*I.C.J. Reports 1992*, p. 237), the Court, having ascertained the views of the Parties, directed that a Reply by the Applicant and a Rejoinder by the Respondent be filed on the questions of jurisdiction and admissibility. It fixed 28 September 1992 as the time-limit for the Reply of Qatar and 29 December 1992 for the Rejoinder of Bahrain. Both the Reply and the Rejoinder were filed within the prescribed time-limits.

Qatar chose Mr. José María Ruda and Bahrain Mr. Nicolas Valticos to sit as judges *ad hoc*. Following Mr. Ruda's death, Qatar chose Mr. Santiago Torres Bernárdez to sit as judge *ad hoc*.

Oral proceedings were held from 28 February to 11 March 1994. In the course of eight public sittings, the Court heard statements on behalf of Qatar and Bahrain.

At a public sitting held on 1 July 1994, the Court delivered a Judgment (*I.C.J. Reports 1994*, p. 112) by which it found that the exchanges of letters between the King of Saudi Arabia and the Amir of Qatar dated 19 and 21 December 1987, and between the King of Saudi Arabia and the Amir of Bahrain dated 19 and 26 December 1987, and the document headed "Minutes" and signed at Doha on 25 December 1990 by the Ministers for Foreign Affairs of Bahrain, Qatar and Saudi Arabia, were international agreements creating rights and obligations for the Parties; and that, by the terms of those agreements, the Parties had undertaken to submit to the Court the whole of the dispute between them, as circumscribed by the Bahraini formula. Having noted that it had before it only an Application from Qatar setting out that State's specific claims in connection with that formula, the Court decided to afford the Parties the opportunity to submit to it the whole of the dispute. It fixed 30 November 1994 as the time-limit within which the Parties were jointly or separately to take action to that end and reserved any other matters for subsequent decision.

Judge Shahabuddeen appended a declaration to the Judgment (*I.C.J. Reports 1994*, p. 129); Vice-President Schwebel and Judge *ad hoc* Valticos appended separate opinions (*ibid.*, pp. 130-131 and 132); and Judge Oda appended a dissenting opinion (*ibid.*, pp. 133-149).

On 30 November 1994, the date fixed in the Judgment of 1 July, the Court received from the Agent of Qatar a letter transmitting an "Act to comply with paragraphs (3) and (4) of the operative paragraph 41 of the Judgment of the Court dated 1 July 1994". On the same day, the Court received a communication from the Agent of Bahrain, transmitting the text of a document entitled "Report of the State of Bahrain to the International Court of Justice on the attempt by the Parties to implement the Court's Judgment of 1st July, 1994".

In view of those communications, the Court resumed dealing with the case.

At a public sitting held on 15 February 1995, the Court delivered a Judgment on jurisdiction and admissibility (*I.C.J. Reports 1995*, p. 6) by which it found that it had jurisdiction to adjudicate upon the dispute submitted to it between the State of Qatar and the State of Bahrain and that the Application of the State of Qatar as formulated on 30 November 1994 was admissible.

Vice-President Schwebel, Judges Oda, Shahabuddeen and Koroma, and Judge *ad hoc* Valticos appended dissenting opinions to the Judgment (*I.C.J. Reports 1995*, pp. 27-39, 40-50, 51-66, 67-73 and 74-78).

Judge *ad hoc* Valticos resigned as of the end of the jurisdiction and admissibility phase of the proceedings.

By an Order of 28 April 1995 (*I.C.J. Reports 1995*, p. 83), the Court, having ascertained the views of Qatar and having given Bahrain an opportunity of stating its views, fixed 29 February 1996 as the time-limit for the filing by each of the Parties of a Memorial on the merits. On the request of Bahrain, and after the views of Qatar had been ascertained, the Court, by an Order of 1 February 1996 (*I.C.J. Reports 1996*, p. 6), extended that time-limit to 30 September 1996. The two Memorials were filed within the thus extended time-limit.

By an Order of 30 October 1996 (*I.C.J. Reports 1996*, p. 800), the President of the Court, taking into account the views of the Parties, fixed 31 December 1997 as the time-limit for the filing by each of the Parties of a Counter-Memorial on the merits.

As Judge *ad hoc* Valticos had resigned, Bahrain chose Mr. Mohamed Shahabuddeen to sit as judge *ad hoc*. After Judge *ad hoc* Shahabuddeen had, in his turn, resigned, Bahrain chose Mr. Yves L. Fortier to sit as judge *ad hoc*.

By a letter dated 25 September 1997 Bahrain informed the Court that it challenged the authenticity of 82 documents produced by Qatar as annexes to its Memorial, and submitted detailed analyses in support of its challenge. Stating that the matter was "distinct and severable from the merits", Bahrain announced that it would disregard the content of these documents for the purposes of preparing its Counter-Memorial.

By a letter of 8 October 1997, Qatar stated that in its view the objections raised by Bahrain were linked to the merits, but that the Court could not "expect Qatar, at the present stage of preparation of its own Counter-Memorial, to comment on the detailed Bahraini allegations".

After Bahrain, in a subsequent letter, had stated that the use by Qatar of the challenged documents gave rise to "procedural difficulties that strike at the fundamentals of the orderly development of the case" and that a new development, relevant to assessment of the authenticity of the documents concerned had taken place, the President of the Court held, on 25 November 1997, a meeting with the Parties at which it was agreed *inter-alia* that the Counter-Memorials would not deal with the question of the authenticity of the documents produced by Qatar and that other pleadings would be submitted by the Parties at a later date.

The Counter-Memorials of the Parties were duly filed and exchanged on 23 December 1997.

On 17 March 1998 the President held a further meeting to ascertain the views of the Parties on the subsequent procedure. Qatar suggested the prescription by the Court of the filing of a Reply by each of the Parties at the end of March 1999, in which case it would be able to annex to its Reply a comprehensive report on the question of the authenticity of the documents; it moreover proposed to submit to the Court, by the end of September 1998, an interim report on that question to which Bahrain would be able to respond in its Reply. Bahrain did not object to the procedure envisaged by Qatar as either unreasonable or unjust.

By an Order of 30 March 1998 (*I.C.J. Reports 1998*, p. 243), the Court then fixed 30 September 1998 as the time-limit for the filing of an interim report by Qatar on the authenticity of each of the challenged documents and directed the filing of a Reply by each of the Parties within the time-limit of 30 March 1999.

The interim report of Qatar was filed within the prescribed time-limit. In the conclusion Qatar stated that it had decided that it would "disregard all the 82 challenged documents for the purposes of the present case so as to enable the Court to address the merits of the case without further procedural complications". It did so because

> "on the one hand . . . . on the question of the material authenticity of the documents, there were differing views not only between the respective experts of the Parties, but also between its own experts, and, on the other hand . . . . as far as the historical aspects were concerned, the experts that it had consulted considered that Bahrain's assertions showed exaggerations and distortions."

The Agent of Bahrain, in a letter of 27 November 1998, referred to "the effective abandonment by Qatar of all of the impeached documents . . .", concluding that Qatar could not make any further reference to the documents concerned, that it would not adduce the content of these documents in connection with any of its arguments and that, in general, the merits of the case would be adjudicated by the Court without regard to these documents. In a letter of 1 February 1999, the Agent of Qatar confirmed that the position adopted by Qatar in its interim report was definitive.

After Qatar had, in December 1998, requested "a two-month extension of the time-limit for the filing of a Reply by each of the Parties, to 30 May 1999", the Court, taking into account the concordant views of the Parties on treatment of the disputed documents and their agreement on the extension of time-limits for the filing of Replies as expressed in an exchange of letters, made an Order on 17 February 1999 (*I.C.J. Reports 1999*, p. 3) placing on record Qatar's decision to disregard the 82 documents challenged by Bahrain, deciding that the Replies would not rely on these documents and extending the time-limit for the submission of those Replies to 30 May 1999. Both Replies were filed within that time-limit.

2, 3. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and *(Libyan Arab Jamahiriya v. United States of America)*

On 3 March 1992 the Government of the Socialist People's Libyan Arab Jamahiriya filed in the Registry of the Court two separate

Applications instituting proceedings against the Government of the United Kingdom of Great Britain and Northern Ireland and against the United States of America in respect of a dispute over the interpretation and application of the Montreal Convention of 23 September 1971, a dispute arising from acts resulting in the aerial incident that occurred over Lockerbie, Scotland, on 21 December 1988.

In the Applications, Libya referred to the charging and indictment of two Libyan nationals by the Lord Advocate of Scotland and by a Grand Jury of the United States, respectively, with having caused a bomb to be placed aboard Pan Am flight 103. The bomb subsequently exploded, causing the aeroplane to crash, as a consequence of which 270 persons were killed.

Libya contended that the acts alleged constituted an offence within the meaning of Article 1 of the Montreal Convention, which it claimed to be the only appropriate convention in force between the Parties, and claimed that it had fully complied with its own obligations under that instrument, Article 5 of which required a State to establish its own jurisdiction over alleged offenders present in its territory in the event of their non-extradition; there was no extradition treaty between Libya and the respective other Parties, and Libya was obliged under Article 7 of the Convention to submit the case to its competent authorities for the purpose of prosecution.

Libya contended that the United Kingdom and the United States were in breach of the Montreal Convention through rejection of its efforts to resolve the matter within the framework of international law, including the Convention itself, in that they were placing pressure upon Libya to surrender the two Libyan nationals for trial.

According to the Applications, it had not been possible to settle by negotiation the disputes that had thus arisen, neither had the Parties been able to agree upon the organization of an arbitration to hear the matter. The Libyan Arab Jamahiriya therefore submitted the disputes to the Court on the basis of Article 14, paragraph 1, of the Montreal Convention.

Libya requested the Court to adjudge and declare as follows:

(*a*) that Libya has fully complied with all of its obligations under the Montreal Convention;

(*b*) that the United Kingdom and the United States respectively have breached, and are continuing to breach, their legal obligations to Libya under Articles 5 (2), 5 (3), 7, 8 (2) and 11 of the Montreal Convention; and

(*c*) that the United Kingdom and the United States respectively are under a legal obligation immediately to cease and desist from such breaches and from the use of any and all force or threats against Libya, including the threat of force against Libya, and from all violations of the sovereignty, territorial integrity, and the political independence of Libya.

Later the same day, Libya made two separate requests to the Court to indicate forthwith the following provisional measures:

(*a*) to enjoin the United Kingdom and the United States respectively from taking any action against Libya calculated to coerce or compel Libya to surrender the accused individuals to any jurisdiction outside of Libya; and

(*b*) to ensure that no steps are taken that would prejudice in any way the rights of Libya with respect to the legal proceedings that are the subject of Libya's Applications.

In those requests Libya also requested the President, pending the meeting of the Court, to exercise the power conferred on him by Article 74, paragraph 4, of the Rules of Court, to call upon the Parties to act in such a way as to enable any Order the Court might make on Libya's request for provisional measures to have its appropriate effects.

By a letter of 6 March 1992, the Legal Adviser of the United States Department of State, referring to the specific request made by Libya under Article 74, paragraph 4, of the Rules of Court, in its request for the indication of provisional measures, stated *inter alia* that

> "taking into account both the absence of any concrete showing of urgency relating to the request and developments in the ongoing action by the Security Council and the Secretary-General in this matter . . . the action requested by Libya . . . is unnecessary and could be misconstrued".

Libya chose Mr. Ahmed S. El-Kosheri to sit as judge *ad hoc* in both cases.

At the opening of the hearings on the request for the indication of provisional measures, on 26 March 1992, the Vice-President of the Court, exercising the functions of the presidency in the case, referred to the request made by Libya under Article 74, paragraph 4, of the Rules of Court and stated that, after the most careful consideration of all the circumstances then known to him, he had come to the conclusion that it would not be appropriate for him to exercise the discretionary power conferred on the President by that provision. At five public sittings held on 26, 27 and 28 March 1992, both Parties in each of the two cases presented oral arguments on the request for the indication of provisional measures.

At a public sitting held on 14 April 1992, the Court read the two Orders on the requests for indication of provisional measures filed by Libya (*I.C.J. Reports 1992*, pp. 3 and 114), in which it found that the circumstances of the cases were not such as to require the exercise of its power to indicate such measures.

Acting President Oda (*ibid.*, pp. 17-19 and 129-131) and Judge Ni (*ibid.*, pp. 20-23 and 132-135) each appended a declaration to the Orders of the Court; Judges Evensen, Tarassov, Guillaume and Aguilar-Mawdsley appended a joint declaration (*ibid.*, pp. 24-25 and 136-137). Judges Lachs (*ibid.*, pp. 26-27 and 138-139) and Shahabuddeen (*ibid.*, pp. 28-32 and 140-142) appended separate opinions; and Judges Bedjaoui (*ibid.*, pp. 33-49 and 143-159), Weeramantry (*ibid.*, pp. 50-71 and 160-181), Ranjeva (*ibid.*, pp. 72-77 and 182), Ajibola (*ibid.*, pp. 78-93 and 183-198) and Judge *ad hoc* El-Kosheri (*I.C.J. Reports 1992*, pp. 94-112 and 199-217) appended dissenting opinions to the Orders.

By Orders of 19 June 1992 (*ibid.*, pp. 231 and 234), the Court, taking into account that the length of time-limits had been agreed by the Parties at a meeting held on 5 June 1992 with the Vice-President of the Court, exercising the function of the presidency in the two cases, fixed 20 December 1993 as the time-limit for the filing of the Memorials of Libya and 20 June 1995 for the filing of the Counter-Memorials of the United Kingdom and the United States of America. The Memorials were filed within the prescribed time-limit.

On 16 and 20 June 1995 respectively the United Kingdom and the United States of America filed preliminary objections to the jurisdiction of the Court to entertain the Applications of the Libyan Arab Jamahiriya.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

After a meeting had been held, on 9 September 1995, between the President of the Court and the Agents of the Parties to ascertain the latters' views, the Court, by Orders of 22 September 1995 (*I.C.J. Reports 1995*, pp. 282 and 285), fixed, in each case, 22 December 1995 as the time-limit within which the Libyan Arab Jamahiriya might present a written statement of its observations and submissions on the preliminary objections raised by the United Kingdom and the United States of America respectively. Libya filed such statements within the prescribed time-limits.

The Secretary-General of the International Civil Aviation Organization, which had, in accordance with Article 34, paragraph 3, of the Statute, been informed that the interpretation of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aircraft, concluded in Montreal on 23 September 1971, was in issue in the two cases, and been communicated copies of the written proceedings, informed the Court that the Organization had "no observation to make for the time being", requesting, however, to be kept informed of the developments of the two cases, in order to determine whether it would be appropriate to submit observations at a later stage.

Judge Higgins having recused herself, the United Kingdom chose Sir Robert Jennings to sit as judge *ad hoc*.

Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by the United Kingdom and the United States of America were held from 13 to 22 October 1997.

At public sittings held on 27 February 1998, the Court delivered the two Judgments on the preliminary objections (*I.C.J. Reports 1998*, pp. 9 and 115 respectively), by which it rejected the objection to jurisdiction raised by the United Kingdom and the United States of America respectively on the basis of the alleged absence of a dispute between the Parties concerning the interpretation or application of the Montreal Convention of 23 September 1971; found that it had jurisdiction, on the basis of Article 14, paragraph 1, of that Convention, to hear the disputes between Libya and the United Kingdom and Libya and the United States of America respectively as to the interpretation or application of the provisions of that Convention; rejected the objection to admissibility derived by the United Kingdom and the United States of America respectively from Security Council resolutions 748 (1992) and 883 (1993); found that the Applications filed by Libya on 3 March 1992 were admissible; and declared that the objection raised by each of the respondent States according to which Security Council resolutions 748 (1992) and 883 (1993) had rendered the claims of Libya without object did not, in the circumstances of the case, have an exclusively preliminary character.

Joint declarations were appended to the Judgment in the case of *Libya* v. *United Kingdom* by Judges Bedjaoui, Guillaume and Ranjeva (*I.C.J. Reports 1998*, pp. 32-45); by Judges Bedjaoui, Ranjeva and Koroma (*ibid.*, p. 46); and by Judges Guillaume and Fleischhauer (*ibid.*, pp. 47-50); Judge Herczegh also appended a declaration (*ibid.*, pp. 51-53); Judges Kooijmans and Rezek appended separate opinions (*ibid.*, pp. 55-60 and 61-63); President Schwebel, Judge Oda and Judge *ad hoc* Sir Robert Jennings appended dissenting opinions (*ibid.*, pp. 64-81, 82-98 and 99-113).

In the case of *Libya* v. *United States of America* joint declarations were appended to the Judgment by Judges Bedjaoui, Ranjeva and Koroma (*ibid.*, p. 138); and by Judges Guillaume and Fleischhauer (*ibid.*, pp. 139-142); Judge Herczegh also appended a declaration (*ibid.*, p. 143); Judges Kooijmans and Rezek appended separate opinions (*ibid.*, pp. 144-151 and 152-154); President Schwebel and Judge Oda appended dissenting opinions (*ibid.*, pp. 155-172 and 173-188).

By Orders of 30 March 1998 (*I.C.J. Reports 1998*, pp. 237 and 240 respectively), the Court fixed 30 December 1998 as the time-limit for the filing of the Counter-Memorials of the United Kingdom and the United States of America respectively. Upon a proposal of the United Kingdom and of the United States respectively, who referred to diplomatic initiatives undertaken shortly before, and after the views of Libya had been ascertained, the Senior Judge, Acting President, of the Court extended by Orders of 17 December 1998 (*I.C.J. Reports 1998*, pp. 746 and 749) that time-limit by three months to 31 March 1999. The Counter-Memorials were filed within the time-limit thus extended.

By Orders of 29 June 1999 (*I.C.J. Reports 1999*, pp. 975 and 979), the Court, taking account of the agreement of the Parties and the special circumstances of the case, authorized the submission of a Reply by Libya and a Rejoinder by the United Kingdom and the United States of America respectively, fixing 29 June 2000 as the time-limit for the filing of Libya's Reply. The Court fixed no date for the filing of the Rejoinders; the representatives of the respondent States had expressed the desire that no such date be fixed at this stage of the proceedings, "in view of the new circumstances consequent upon the transfer of the two accused to the Netherlands for trial by a Scottish court".

4. Oil Platforms (Islamic Republic of Iran v. United States of America)

On 2 November 1992 the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America in respect of a dispute concerning the destruction of three Iranian oil platforms.

The Islamic Republic founded the jurisdiction of the Court for the purposes of these proceedings on Article XXI (2) of the Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran, signed at Tehran on 15 August 1955.

In its Application Iran alleged that the destruction caused by several warships of the United States Navy, on 19 October 1987 and 18 April 1988, to three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company, constituted a fundamental breach of various provisions of the Treaty of Amity and of international law. In this connection Iran referred in particular to Articles I and X (1) of the Treaty which provide respectively: "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran", and "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation".

The Islamic Republic accordingly requested the Court to adjudge and declare as follows:

> "*(a)* that the Court has jurisdiction under the Treaty of Amity to entertain the dispute and to rule upon the claims submitted by the Islamic Republic;
>
> *(b)* that in attacking and destroying the oil platforms referred to in the Application on 19 October 1987 and 18 April 1988, the United States breached its obligations to the Islamic Republic, *inter alia*, under Articles I and X (1) of the Treaty of Amity and international law;
>
> *(c)* that in adopting a patently hostile and threatening attitude towards the Islamic Republic that culminated in the attack and destruction of the Iranian oil platforms, the United States breached the object and purpose of the Treaty of Amity, including Articles I and X (1), and international law;
>
> *(d)* that the United States is under an obligation to make reparations to the Islamic Republic for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings. The Islamic Republic reserves the right to introduce and present to the Court in due course a precise evaluation of the reparations owed by the United States; and
>
> *(e)* any other remedy the Court may deem appropriate."

By an Order of 4 December 1992 (*I.C.J. Reports 1992*, p. 763), the President of the Court, taking into account an agreement of the Parties, fixed 31 May 1993 as the time-limit for the filing of the Memorial of Iran and 30 November 1993 for the filing of the Counter-Memorial of the United States.

By an Order of 3 June 1993 (*I.C.J. Reports 1993*, p. 35), the President of the Court, upon the request of Iran and after the United States had indicated that it had no objection, extended those time-limits to 8 June and 16 December 1993, respectively. The Memorial was filed within the prescribed time-limit.

The Islamic Republic of Iran chose Mr. François Rigaux to sit as judge *ad hoc*.

On 16 December 1993, within the extended time-limit for filing the Counter-Memorial, the United States of America filed a preliminary objection to the Court's jurisdiction. In accordance with the terms of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended; by an Order of 18 January 1994 (*I.C.J. Reports 1994*, p. 3), the Court fixed 1 July 1994 as the time-limit within which Iran could present a written statement of its observations and submissions on the objections. That written statement was filed within the prescribed time-limit.

Public sittings to hear the oral arguments of the Parties on the preliminary objection filed by the United States of America were held between 16 and 24 September 1996.

At a public sitting held on 12 December 1996, the Court delivered its Judgment on the preliminary objection raised by the United States (*I.C.J. Reports 1996*, p. 803), rejecting that objection and finding that it had jurisdiction, on the basis of Article XXI, paragraph 2, of the Treaty of 1955, to entertain the claims made by Iran under Article X, paragraph 1, of that Treaty.

Judges Shahabuddeen, Ranjeva, Higgins and Parra-Aranguren and Judge *ad hoc* Rigaux appended separate opinions to the Judgment of the Court (*I.C.J. Reports 1996*, pp. 822-841, 842-846, 847-861, 862-863 and 864-873); Vice-President Schwebel and Judge Oda appended dissenting opinions (*ibid.*, pp. 874-889 and 890-900).

By an Order of 16 December 1996 (*I.C.J. Reports 1996*, p. 902), the President of the Court, taking into account agreement of the Parties, fixed 23 June 1997 as the time-limit for the filing of the Counter-Memorial of the United States of America. Within the time-limit thus fixed the United States filed the Counter-Memorial and a Counter-Claim, requesting the Court to adjudge and declare:

> "1. That in attacking vessels, laying mines in the Gulf and otherwise engaging in military actions in 1987-1988 that were dangerous and detrimental to maritime commerce, the Islamic Republic of Iran breached its obligations to the United States under Article X of the 1955 Treaty, and
>
> 2. That the Islamic Republic of Iran is accordingly under an obligation to make full reparation to the United States for violating

> the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

By a letter of 2 October 1997 Iran informed the Court that it had "serious objections to the admissibility of the United States counter-claim", taking the position that the counter-claim as formulated by the United States did not meet the requirements of Article 80, paragraph 1, of the Rules of Court.

At a meeting which the Vice-President of the Court, Acting President, held on 17 October 1997 with the Agents of the Parties it was agreed that their respective Governments would submit written observations on the question of the admissibility of the United States counter-claim.

After Iran and the United States, in communications dated 18 November and 18 December 1997 respectively, had submitted these written observations the Court, by an Order of 10 March 1998 (*I.C.J. Reports 1998*, p. 190), found that the counter-claim presented by the United States in its Counter-Memorial was admissible as such and formed part of the proceedings. It further directed Iran to submit a Reply and the United States to submit a Rejoinder, fixing the time-limits for those pleadings at 10 September 1998 and 23 November 1999 respectively.

Judges Oda and Higgins appended separate opinions to the Order (*I.C.J. Reports 1998*, pp. 208-216 and 217-223); Judge *ad hoc* Rigaux appended a dissenting opinion (*ibid.*, pp. 224-235).

By an Order of 26 May 1998 (*I.C.J. Reports 1998*, p. 269), the Vice-President of the Court, Acting President, extended, at the request of Iran and taking into account the views expressed by the United States, the time-limits for Iran's Reply and the United States Rejoinder to 10 December 1998 and 23 May 2000 respectively. By an Order of 8 December 1998 (*I.C.J. Reports 1998*, p. 740) the Court further extended those time-limits to 10 March 1999 for Iran's Reply and 23 November 2000 for the United States Rejoinder. Iran's Reply was filed within the time-limit thus extended.

5. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*

On 20 March 1993, the Republic of Bosnia and Herzegovina filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Yugoslavia "for violating the Genocide Convention".

The Application referred to several provisions of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, as well as of the Charter of the United Nations, which Bosnia and Herzegovina alleged were violated by Yugoslavia. It also referred in this respect to the four Geneva Conventions of 1949 and their Additional Protocol I of 1977, to the Hague Regulations on Land Warfare of 1907, and to the Universal Declaration of Human Rights.

The Application referred to Article IX of the Genocide Convention as the basis for the jurisdiction of the Court.

In the Application, Bosnia and Herzegovina requested the Court to adjudge and declare:

"*(a)* that Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations toward the People and State of Bosnia and Herzegovina under Articles I, II *(a)*, II *(b)*, II *(c)*, II *(d)*, III *(a)*, III *(b)*, III *(c)*, III *(d)*, III *(e)*, IV and V of the Genocide Convention;

(b) that Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949, their Additional Protocol I of 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;

(c) that Yugoslavia (Serbia and Montenegro) has violated and continues to violate Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina;

(d) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so;

(e) that in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is continuing to violate, its solemn obligations under Articles 1 (3), 55 and 56 of the United Nations Charter;

(f) that Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Articles 2 (1), 2 (2), 2 (3), 2 (4), and 33 (1), of the United Nations Charter;

(g) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

(h) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:

- armed attacks against Bosnia and Herzegovina by air and land;
- aerial trespass into Bosnian airspace;

efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;

(*i*) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;

(*j*) that Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4) of the United Nations Charter, as well as its obligations under general and customary international law;

(*k*) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend Itself and its People under United Nations Charter Article 51 and customary international law, including by means of immediately obtaining military weapons, equipment, supplies and troops from other States;

(*l*) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under United Nations Charter Article 51 and customary international law to request the immediate assistance of any State to come to its defence, including by military means (weapons, equipment, supplies, troops, etc.);

(*m*) that Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(*n*) that all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(*o*) that Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the United Nations Charter and in accordance with the customary doctrine of *ultra vires*;

(*p*) that pursuant to the right of collective self-defence recognized by United Nations Charter Article 51, all other States parties to the Charter have the right to come to the immediate defence of Bosnia and Herzegovina — at its request — including by means of immediately providing it with weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.);

(q) that Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately.

- from its systematic practice of so-called 'ethnic cleansing' of the citizens and sovereign territory of Bosnia and Herzegovina;
- from the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;
- from the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;
- from the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
- from continuing the siege of any civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
- from the starvation of the civilian population in Bosnia and Herzegovina.
- from the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;
- from all use of force — whether direct or indirect, overt or covert — against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;
- from all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;
- from all support of any kind — including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of support — to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina;

(r) that Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina

> reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro)."

On the same day, the Government of Bosnia and Herzegovina, stating that:

> "The overriding objective of this Request is to prevent further loss of human life in Bosnia and Herzegovina",

and that:

> "The very lives, well-being, health, safety, physical, mental and bodily integrity, homes, property and personal possessions of hundreds of thousands of people in Bosnia and Herzegovina are right now at stake, hanging in the balance, awaiting the order of this Court",

filed a request for the indication of provisional measures under Article 41 of the Statute of the Court.

The provisional measures requested were as follows:

> "1. That Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, must immediately cease and desist from all acts of genocide and genocidal acts against the People and State of Bosnia and Herzegovina, including but not limited to murder; summary executions; torture; rape; mayhem; so-called 'ethnic cleansing'; the wanton devastation of villages, towns, districts and cities; the siege of villages, towns, districts and cities; the starvation of the civilian population; the interruption of, interference with, or harassment of humanitarian relief supplies to the civilian population by the international community; the bombardment of civilian population centres; and the detention of civilians in concentration camps or otherwise.
>
> 2. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support — including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support — to any nation, group, organization, movement, militia or individual engaged in or planning to engage in military or paramilitary activities in or against the People, State and Government of Bosnia and Herzegovina.
>
> 3. That Yugoslavia (Serbia and Montenegro) itself must immediately cease and desist from any and all types of military or paramilitary activities by its own officials, agents, surrogates, or forces in or against the People, State and Government of Bosnia and Herzegovina, and from any other use or threat of force in its relations with Bosnia and Herzegovina.
>
> 4. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to seek and receive support from other States in order to defend Itself and its People, including

> by means of immediately obtaining military weapons, equipment and supplies.
>
> 5. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to request the immediate assistance of any State to come to its defence, including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.).
>
> 6. That under the current circumstances, any State has the right to come to the immediate defence of Bosnia and Herzegovina — at its request — including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, and airpeople, etc.)."

Hearings on the request for the indication of provisional measures were held on 1 and 2 April 1993. At two public sittings the Court heard the oral observations of each of the Parties. A Member of the Court put a question to both Agents.

At a public sitting held on 8 April 1993, the President of the Court read out the Order on the request for provisional measures made by Bosnia and Herzegovina (*I.C.J. Reports 1993*, p. 3) by which the Court indicated, pending its final decision in the proceedings instituted on 20 March 1993 by the Republic of Bosnia and Herzegovina against the Federal Republic of Yugoslavia, the following provisional measures:

(*a*) The Government of the Federal Republic of Yugoslavia should immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide; and the Government of the Federal Republic of Yugoslavia should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnical, racial or religious group.

(*b*) The Government of the Federal Republic of Yugoslavia and the Government of the Republic of Bosnia and Herzegovina should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute over the prevention or punishment of the crime of genocide, or render it more difficult of solution.

Judge Tarassov appended a declaration to the Order (*I.C.J. Reports 1993*, pp. 26-27).

By an Order of 16 April 1993 (*ibid.*, p. 29), the President of the Court, taking into account an agreement of the Parties, fixed 15 October 1993 as the time-limit for the filing of the Memorial of Bosnia and Herzegovina and 15 April 1994 for the filing of the Counter-Memorial of Yugoslavia.

Bosnia and Herzegovina chose Mr. Elihu Lauterpacht and Yugoslavia Mr. Milenko Kreća to sit as judges *ad hoc*.

On 27 July 1993 the Republic of Bosnia and Herzegovina filed a second request for the indication of provisional measures, stating that:

> "This extraordinary step is being taken because the respondent has violated each and every one of the three measures of protection on behalf of Bosnia and Herzegovina that were indicated by this Court on 8 April 1993, to the grave detriment of both the People and State of Bosnia and Herzegovina. In addition to continuing its campaign of genocide against the Bosnian People — whether Muslim, Christian, Jew, Croat or Serb — the Respondent is now planning, preparing, conspiring to, proposing, and negotiating the partition, dismemberment, annexation and incorporation of the sovereign State of Bosnia and Herzegovina — a Member of the United Nations Organization — by means of genocide."

The provisional measures then requested were as follows:

> "1. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support — including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support — to any nation, group, organization, movement, military, militia or paramilitary force, irregular armed unit, or individual in Bosnia and Herzegovina for any reason or purpose whatsoever.
>
> 2. That Yugoslavia (Serbia and Montenegro) and all of its public officials — including and especially the President of Serbia, Mr. Slobodan Milosevic — must immediately cease and desist from any and all efforts, plans, plots, schemes, proposals or negotiations to partition, dismember, annex or incorporate the sovereign territory of Bosnia and Herzegovina.
>
> 3. That the annexation or incorporation of any sovereign territory of the Republic of Bosnia and Herzegovina by Yugoslavia (Serbia and Montenegro) by any means or for any reason shall be deemed illegal, null, and void *ab initio*.
>
> 4. That the Government of Bosnia and Herzegovina must have the means 'to prevent' the commission of acts of genocide against its own People as required by Article I of the Genocide Convention.
>
> 5. That all Contracting Parties to the Genocide Convention are obliged by Article I thereof 'to prevent' the commission of acts of genocide against the People and State of Bosnia and Herzegovina.
>
> 6. That the Government of Bosnia and Herzegovina must have the means to defend the People and State of Bosnia and Herzegovina

> from acts of genocide and partition and dismemberment by means of genocide.
>
> 7. That all Contracting Parties to the Genocide Convention have the obligation thereunder 'to prevent' acts of genocide, and partition and dismemberment by means of genocide, against the People and State of Bosnia and Herzegovina.
>
> 8. That in order to fulfil its obligations under the Genocide Convention under the current circumstance, the Government of Bosnia and Herzegovina must have the ability to obtain military weapons, equipment, and supplies from other Contracting Parties.
>
> 9. That in order to fulfil their obligations under the Genocide Convention under the current circumstances, all Contracting Parties thereto must have the ability to provide military weapons, equipment, supplies and armed forces (soldiers, sailors, airpeople) to the Government of Bosnia and Herzegovina at its request.
>
> 10. That United Nations Peacekeeping Forces in Bosnia and Herzegovina (i.e., UNPROFOR) must do all in their power to ensure the flow of humanitarian relief supplies to the Bosnian People through the Bosnian city of Tuzla."

On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court,

> "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects",

and stating:

> "I do now call upon the Parties so to act, and I stress that the provisional measures already indicated in the Order which the Court made after hearing the Parties, on 8 April 1993, still apply.
>
> Accordingly I call upon the Parties to take renewed note of the Court's Order and to take all and any measures that may be within their power to prevent any commission, continuance, or encouragement of the heinous international crime of genocide."

On 10 August 1993 Yugoslavia filed a request, dated 9 August 1993, for the indication of provisional measures, whereby it requested the Court to indicate the following provisional measure:

> "The Government of the so-called Republic of Bosnia and Herzegovina should immediately, in pursuance of its obligation under the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide against the Serb ethnic group."

The hearings concerning the further requests for the indication of provisional measures were held on 25 and 26 August 1993. In the course of two public sittings the Court heard statements from each of the Parties.

At a public sitting held on 13 September 1993, the President of the Court read out the Order concerning the further requests for the indication of provisional measures (*I.C.J. Reports 1993*, p. 325), by which the Court reaffirmed the provisional measures indicated in its Order of 8 April 1993, which measures, the Court stated, should be immediately and effectively implemented.

Judge Oda appended a declaration to the Order (*I.C.J. Reports 1993*, pp. 351-352); Judges Shahabuddeen, Weeramantry and Ajibola and Judge *ad hoc* Lauterpacht appended separate opinions (*ibid.*, pp. 353-369, 370-389, 390-406 and 407-448); and Judge Tarassov and Judge *ad hoc* Kreća appended dissenting opinions (*ibid.*, pp. 449-452 and 453-465).

By an Order of 7 October 1993 (*I.C.J. Reports 1993*, p. 470), the Vice-President of the Court, at the request of Bosnia and Herzegovina and after Yugoslavia had expressed its opinion, extended to 15 April 1994 the time-limit for the filing of the Memorial of Bosnia and Herzegovina, and to 15 April 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia. The Memorial was filed within the prescribed time-limit.

By an Order of 21 March 1995 (*I.C.J. Reports 1995*, p. 80), the President of the Court, upon a request of the Agent of Yugoslavia and after the views of Bosnia and Herzegovina had been ascertained, extended to 30 June 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia.

On 26 June 1995, within the extended time-limit for the filing of its Counter-Memorial, Yugoslavia filed certain preliminary objections. The objections related, firstly, to the admissibility of the Application and, secondly, to the jurisdiction of the Court to deal with the case.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provision of that Article.

By an Order of 14 July 1995 (*I.C.J. Reports 1995*, p. 279), the President of the Court, taking into account the views expressed by the Parties, fixed 14 November 1995 as the time-limit within which the Republic of Bosnia and Herzegovina might present a written statement of its observations and submissions on the preliminary objections raised by the Federal Republic of Yugoslavia. Bosnia and Herzegovina filed such a statement within the prescribed time-limit.

Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by Yugoslavia were held between 29 April and 3 May 1996.

At a public sitting held on 11 July 1996, the Court delivered its Judgment on the preliminary objections (*I.C.J. Reports 1996*, p. 595), by which it rejected the objections raised by Yugoslavia, finding that, on the basis of Article XI of the Convention on the Prevention and Punishment of the Crime of Genocide, it had jurisdiction; dismissed the additional basis of jurisdiction invoked by Bosnia and Herzegovina and found that the Application was admissible.

Judge Oda appended a declaration to the Judgment of the Court (*ibid.*, pp. 625-630); Judges Shi and Vereshchetin appended a joint declaration (*ibid.*, pp. 631-632); Judge *ad hoc* Lauterpacht also appended a declaration (*ibid.*, p. 633); Judges Shahabuddeen, Weeramantry and Parra-Aranguren appended separate opinions to the Judgment (*ibid.*, pp. 634-639, 640-655 and 656-657); Judge *ad hoc* Kreća appended a dissenting opinion (*I.C.J. Reports 1996*, pp. 658-795).

By an Order of 23 July 1996 (*I.C.J. Reports 1996*, p. 797), the President of the Court, taking into account the views expressed by the Parties, fixed 23 July 1997 as the time-limit for the filing of the Counter-Memorial of Yugoslavia. The Counter-Memorial was filed within the prescribed time-limit. It included counter-claims, by which Yugoslavia requested the Court to adjudge and declare:

> "3. Bosnia and Herzegovina is responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina and for other violations of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide:
>
> > because it has incited acts of genocide by the 'Islamic Declaration', and in particular by the position contained in it that 'there can be no peace or coexistence between "Islamic faith" and "non-Islamic" social and political institutions';
> > because it has incited acts of genocide by the *Novi Vox*, paper of the Muslim youth, and in particular by the verses of a 'Patriotic Song' which reads as follows:
> >
> > > 'Dear mother, I'm going to plant willows,
> > > We'll hang Serbs from them.
> > > Dear mother, I'm going to sharpen knives,
> > > We'll soon fill pits again';
> >
> > because it has incited acts of genocide by the paper *Zmaj od Bosne*, and in particular by the sentence in an article published in it that 'Each Muslim must name a Serb and take oath to kill him';
> > because public calls for the execution of Serbs were broadcast on radio 'Hajat' and thereby acts of genocide were incited;
> > because the armed forces of Bosnia and Herzegovina, as well as other organs of Bosnia and Herzegovina have committed acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs in Bosnia and Herzegovina, which have been stated in Chapter Seven of the Counter-Memorial;
> > because Bosnia and Herzegovina has not prevented the acts of genocide and other acts prohibited by the 1948 Convention on the

> Prevention and Punishment of the Crime of Genocide, against the Serbs on its territory, which have been stated in Chapter Seven of the Counter-Memorial.
>
> 4. Bosnia and Herzegovina has the obligation to punish the persons held responsible for the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.
>
> 5. Bosnia and Herzegovina is bound to take necessary measures so that the said acts would not be repeated in the future.
>
> 6. Bosnia and Herzegovina is bound to eliminate all consequences of the violation of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and provide adequate compensation."

By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that "the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings".

At a meeting which the President of the Court held on 22 September 1997 with the Agents of the Parties both Parties accepted that their respective Governments would submit written observations on the question of the admissibility of the Yugoslav counter-claims.

After Bosnia and Herzegovina and Yugoslavia, in communications dated 9 October and 23 October 1997 respectively, had submitted written observations the Court, by an Order of 17 December 1997 (*I.C.J. Reports 1997*, p. 243), found that the counter-claims submitted by Yugoslavia in its Counter-Memorial were admissible as such and formed part of the proceedings. It further directed Bosnia and Herzegovina to submit a Reply and Yugoslavia to submit a Rejoinder, fixing the time-limits for those pleadings at 23 January and 23 July 1998 respectively.

Judge *ad hoc* Kreća appended a declaration to the Order (*ibid.*, pp. 262-271); Judge Koroma and Judge *ad hoc* Lauterpacht appended separate opinions (*ibid.*, pp. 272-277 and 278-286); and Vice-President Weeramantry appended a dissenting opinion (*ibid.*, pp. 287-297).

By an Order of 22 January 1998 (*I.C.J. Reports 1998*, p. 3), the President of the Court, at the request of Bosnia and Herzegovina and taking into account the views expressed by Yugoslavia, extended the time-limits for the Reply of Bosnia and Herzegovina and the Rejoinder of Yugoslavia to 23 April 1998 and 22 January 1999 respectively. The Reply of Bosnia and Herzegovina was filed within the prescribed time-limit.

Following a request from Yugoslavia and after the views of Bosnia and Herzegovina had been ascertained, the Court, by an Order of 11 December 1998 (*I.C.J. Reports 1998*, p. 743), extended the time-limit for the filing of Yugoslavia's Rejoinder to 22 February 1999. That Rejoinder was filed within the time-limit thus extended.

6. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*

On 23 October 1992 the Ambassador of the Republic of Hungary to the Netherlands filed in the Registry of the Court an Application instituting proceedings against the Czech and Slovak Federal Republic in a dispute concerning the projected diversion of the Danube. In that document the Hungarian Government, before detailing its case, invited the Czech and Slovak Federal Republic to accept the jurisdiction of the Court.

A copy of the Application was transmitted to the Government of the Czech and Slovak Federal Republic in accordance with Article 38, paragraph 5, of the Rules of Court, which reads as follows:

> "When the Applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Following negotiations under the aegis of the European Communities between Hungary and the Czech and Slovak Federal Republic, which dissolved into two separate States on 1 January 1993, the Governments of the Republic of Hungary and of the Slovak Republic notified jointly, on 2 July 1993, to the Registrar of the Court a Special Agreement, signed at Brussels on 7 April 1993, for the submission to the Court of certain issues arising out of differences which had existed between the Republic of Hungary and the Czech and Slovak Federal Republic, regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the Construction and Operation of the Gabčíkovo-Nagymaros Barrage System and on the construction and operation of the "provisional solution". The Special Agreement records that the Slovak Republic is in this respect the sole successor State of the Czech and Slovak Federal Republic.

In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> (*a*) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;

> *(b)* whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);
>
> *(c)* what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.
>
> (2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph 1 of this Article."

By an Order of 14 July 1993 (*I.C.J. Reports 1993*, p. 319) the Court decided that, as provided in Article 3, paragraph 2, of the Special Agreement and Article 46, paragraph 1, of the Rules of Court, each Party should file a Memorial and a Counter-Memorial, within the same time-limit, and fixed 2 May 1994 and 5 December 1994 as the time-limits for the filing of the Memorial and Counter-Memorial, respectively. The Memorials and Counter-Memorials were filed within the prescribed time-limits.

Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge *ad hoc*.

By an Order of 20 December 1994 (*I.C.J. Reports 1994*, p. 151), the President of the Court, taking into account the views of the Parties, fixed 20 June 1995 as the time-limit for the filing of a Reply by each of the Parties. Those Replies were filed within the prescribed time-limit.

In June 1995 the Agent of Slovakia asked the Court, by letter, to visit the site of the Gabčikovo-Nagymaros hydroelectric dam project on the river Danube with regard to the obtaining of evidence in the above case. The Agent of Hungary thereupon informed the Court that his country would be pleased to co-operate in organizing such a visit.

In November 1995, in Budapest and New York, the two Parties then signed a "Protocol of Agreement" on the proposal of a visit by the Court, which, after dates had been fixed with the approval of the Court, was supplemented by Agreed Minutes on 3 February 1997.

By an Order of 5 February 1997 (*I.C.J. Reports 1997*, p. 3) the Court decided to "exercise its functions with regard to the obtaining of evidence by visiting a place or locality to which the case relates" (cf. Art. 66 of the Rules of Court) and to "adopt to that end the arrangements proposed by the Parties". The visit, which was the first in the Court's fifty-year history, took place from 1 to 4 April 1997, between the first and second rounds of oral hearings.

The first round of those hearings took place from 3 to 7 March and from 24 to 27 March 1997. A video-film was shown by each of the

Parties. The second round took place on 10 and 11 and on 14 and 15 April 1997.

At a public sitting held on 25 September 1997, the Court delivered its Judgment (*I.C.J. Reports 1997*, p. 7), by which,

(1) Having regard to Article 2, paragraph 1, of the Special Agreement it [found]:

A. that Hungary had not been entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčikovo Project for which the Treaty of 16 September 1977 and related instruments attributed responsibility to it;

B. that Czechoslovakia had been entitled to proceed, in November 1991, to the "provisional solution" as described in the terms of the Special Agreement;

C. that Czechoslovakia had not been entitled to put into operation, from October 1992, this "provisional solution";

D. that the notification, on 19 May 1992, of the termination of the Treaty of 16 September 1977 and related instruments by Hungary had not had the legal effect of terminating them; and,

(2) Having regard to Article 2, paragraph 2, and Article 5 of the Special Agreement, it found:

A. that Slovakia, as successor to Czechoslovakia, had become a party to the Treaty of 16 September 1977 as from 1 January 1993;

B. that Hungary and Slovakia should negotiate in good faith in the light of the prevailing situation, and should take all necessary measures to ensure the achievement of the objectives of the Treaty of 16 September 1977, in accordance with such modalities as they might agree upon;

C. that, unless the Parties otherwise agreed, a joint operational régime should be established in accordance with the Treaty of 16 September 1977;

D. that, unless the Parties otherwise agreed, Hungary should compensate Slovakia for the damage sustained by Czechoslovakia and by Slovakia on account of the suspension and abandonment by Hungary of works for which it was responsible; and Slovakia should compensate Hungary for the damage it has sustained on account of the putting into operation of the "provisional solution" by Czechoslovakia and its maintenance in service by Slovakia; and

E. that the settlement of accounts for the construction and operation of the works should be effected in accordance with the relevant provisions of the Treaty of 16 September 1977 and related instruments, taking due account of such measures as would have been taken by the Parties in application of points 2 B and C of the operative paragraph.

President Schwebel and Judge Rezek appended declarations to the Judgment (*I.C.J. Reports 1997*, pp. 85 and 86-87); Vice-President Weeramantry, Judges Bedjaoui and Koroma appended separate opinions (*ibid.*, pp. 88-119, 120-141 and 142-152); Judges Oda, Ranjeva, Herczegh, Fleischhauer, Vereshchetin and Parra-Aranguren and Judge *ad hoc* Skubiszewski appended dissenting opinions (*ibid.*, pp. 153-169, 170-175, 176-203, 204-218, 219-226, 227-231 and 232-241).

On 3 September 1998 Slovakia filed in the Registry of the Court a request for an additional Judgment in the case. Such an additional Judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997.

In its request, Slovakia stated that the Parties had conducted a series of negotiations on the modalities for executing the Court's Judgment and had initialled a draft Framework Agreement, which had been approved by the Government of Slovakia on 10 March 1998. Slovakia contended that on 5 March 1998, however, Hungary had postponed its approval and, upon the accession of its new Government following the May elections, it had proceeded to disavow the draft Framework Agreement and was further delaying the implementation of the Judgment. Slovakia maintained that it wanted the Court to determine the modalities for executing the Judgment.

As the basis for its request, Slovakia invoked Article 5 (3) of the Special Agreement signed at Brussels on 7 April 1993 by itself and Hungary with a view to the joint submission of their dispute to the Court. The full text of Article 5 reads as follows:

> "(1) The Parties shall accept the Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.
>
> (2) Immediately after the transmission of the Judgment the Parties shall enter into negotiations on the modalities for its execution.
>
> (3) If they are unable to reach agreement within six months, either Party may request the Court to render an additional Judgment to determine the modalities for executing its Judgment."

Slovakia asked the Court

> "to adjudge and declare:
>
> 1. that Hungary bears responsibility for the failure of the Parties so far to agree on the modalities for executing the Judgment of 25 September 1997;
> 2. that in accordance with the Court's Judgment of 25 September 1997, the obligation of the Parties to take all necessary measures to ensure that achievement of the objectives of the Treaty of 16 September 1977 (by which they agreed to build the Gabčikovo-Nagymaros Project) applies to the whole geographical area and the whole range of relationships covered by that Treaty;
> 3. that, in order to ensure compliance with the Court's Judgment of 25 September 1997, and given that the 1977 Treaty remains in

force and that the Parties must take all necessary measures to ensure the achievement of the objectives of that Treaty:

(*a*) with immediate effect, the two Parties shall resume their negotiations in good faith so as to expedite their agreement on the modalities for achieving the objectives of the Treaty of 16 September 1977;

(*b*) in particular, Hungary is bound to appoint forthwith its Plenipotentiary as required under Article 3 of the Treaty, and to utilize all mechanisms for joint studies and co-operation established by the Treaty, and generally to conduct its relations with Slovakia on the basis of the Treaty;

(*c*) the Parties shall proceed by way of a Framework Agreement leading to a Treaty providing for any necessary amendments to the 1977 Treaty;

(*d*) in order to achieve this result, the Parties shall conclude a binding Framework Agreement not later than 1 January 1999;

(*e*) the Parties shall reach a final agreement on the necessary measures to ensure the achievement of the objectives of the 1977 Treaty in a treaty to enter into force by 30 June 2000;

4. that, should the Parties fail to conclude a Framework Agreement or a final agreement by the dates specified at subparagraphs 3 (*d*) and (*e*) above:

(*a*) the 1977 Treaty must be complied with in accordance with its spirit and terms; and

(*b*) either party may request the Court to proceed with the allocation of responsibility for any breaches of the Treaty and reparation for such breaches."

At a meeting that the President of the Court held with the representatives of the Parties on 7 October 1998, it was decided that Hungary was to file by 7 December 1998 a written statement of its position on the request for an additional Judgment made by Slovakia. Hungary filed its written statement within the time-limit fixed. The Parties subsequently have informed the Court of the resumption of negotiations between them.

7. *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*

On 29 March 1994 the Republic of Cameroon filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Nigeria in a dispute concerning the question of sovereignty over the peninsula of Bakassi, and requesting the Court to determine the course of the maritime frontier between the two States in so far as that frontier had not already been established in 1975.

As a basis for the jurisdiction of the Court, the Application refers to the declarations made by Cameroon and Nigeria under Article 36, paragraph 2, of the Statute of the Court, by which they accept that jurisdiction as compulsory.

In the Application Cameroon refers to "an aggression by the Federal Republic of Nigeria, whose troops are occupying several Cameroonian localities on the Bakassi Peninsula", resulting "in great prejudice to the Republic of Cameroon", and requests the Court to adjudge and declare:

> "*(a)* that sovereignty over the Peninsula of Bakassi is Cameroonian, by virtue of international law, and that that Peninsula is an integral part of the territory of Cameroon;
>
> *(b)* that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization (*uti possidetis juris*);
>
> *(c)* that by using force against the Republic of Cameroon, the Federal Republic of Nigeria has violated and is violating its obligations under international treaty law and customary law;
>
> *(d)* that the Federal Republic of Nigeria, by militarily occupying the Cameroonian Peninsula of Bakassi, has violated and is violating the obligations incumbent upon it by virtue of treaty law and customary law;
>
> *(e)* that in view of these breaches of legal obligation, mentioned above, the Federal Republic of Nigeria has the express duty of putting an end to its military presence in Cameroonian territory, and effecting an immediate and unconditional withdrawal of its troops from the Cameroonian Peninsula of Bakassi;
>
> *(e')* that the internationally unlawful acts referred to under *(a)*, *(b)*, *(c)*, *(d)*, and *(e)* above involve the responsibility of the Federal Republic of Nigeria;
>
> *(e")* that, consequently, and on account of the material and non-material damage inflicted upon the Republic of Cameroon, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] a precise assessment of the damage caused by the Federal Republic of Nigeria;
>
> *(f)* in order to prevent any dispute arising between the two States concerning their maritime boundary, the Republic of Cameroon requests the Court to proceed to prolong the course of its maritime boundary with the Federal Republic of Nigeria up to the limit of the maritime zones which international law places under their respective jurisdictions."

On 6 June 1994 Cameroon filed in the Registry of the Court an Additional Application "for the purpose of extending the subject of the dispute" to a further dispute described as relating essentially "to the question of sovereignty over a part of the territory of Cameroon in the area of Lake Chad", while also asking the Court to specify definitively the frontier between Cameroon and Nigeria from Lake Chad to the sea. Cameroon requested the Court to adjudge and declare:

"(*a*) that sovereignty over the disputed parcel in the area of Lake Chad is Cameroonian, by virtue of international law, and that that parcel is an integral part of the territory of Cameroon;

(*b*) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization (*uti possidetis juris*), and its recent legal commitments concerning the demarcation of frontiers in Lake Chad;

(*c*) that the Federal Republic of Nigeria, by occupying, with the support of its security forces, parcels of Cameroonian territory in the area of Lake Chad, has violated and is violating its obligations under treaty law and customary law;

(*d*) that in view of these legal obligations, mentioned above, the Federal Republic of Nigeria has the express duty of effecting an immediate and unconditional withdrawal of its troops from Cameroonian territory in the area of Lake Chad;

(*e*) that the internationally unlawful acts referred to under (*a*), (*b*), and (*d*) above involve the responsibility of the Federal Republic of Nigeria;

(*e'*) that consequently, and on account of the material and non-material damage inflicted upon the Republic of Cameroon, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] a precise assessment of the damage caused by the Federal Republic of Nigeria;

(*f*) that in view of the repeated incursions of Nigerian groups and armed forces into Cameroonian territory, all along the frontier between the two countries, the consequent grave and repeated incidents, and the vacillating and contradictory attitude of the Federal Republic of Nigeria in regard to the legal instruments defining the frontier between the two countries and the exact course of that frontier, the Republic of Cameroon respectfully asks the Court to specify definitively the frontier between Cameroon and the Federal Republic of Nigeria from Lake Chad to the sea."

Cameroon further requested the Court to join the two Applications "and to examine the whole in a single case".

At a meeting between the President of the Court and the representatives of the Parties held on 14 June 1994, the Agent of Nigeria indicated that his Government had no objection to the Additional Application being treated as an amendment to the initial Application, so that the Court could deal with the whole as one case.

Cameroon chose Mr. Kéba Mbaye and Nigeria Prince Bola A. Ajibola to sit as judges *ad hoc*.

By an Order of 16 June 1994 (*I.C.J. Reports 1994*, p. 105), the Court, seeing no objection to the suggested procedure, fixed 16 March 1995 as the time-limit for filing the Memorial of Cameroon, and 18 December 1995 as the time-limit for filing the Counter-Memorial of Nigeria. The Memorial was filed within the prescribed time-limit.

On 13 December 1995, within the time-limit for the filing of its Counter-Memorial, Nigeria filed certain preliminary objections to the jurisdiction of the Court and to the admissibility of the claims of Cameroon.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

By an Order of 10 January 1996 (*I.C.J. Reports 1996*, p. 3), the President of the Court, taking into account the views expressed by the Parties at a meeting between the President and the Agents of the Parties held on 10 January 1996, fixed 15 May 1996 as the time-limit within which Cameroon might present a written statement of its observations and submissions on the preliminary objections raised by Nigeria. Cameroon filed such a statement within the prescribed time-limit.

On 12 February 1996, the Registry of the International Court of Justice received from Cameroon a request for the indication of provisional measures, with reference to "serious armed incidents" which had taken place between Cameroonian and Nigerian forces in the Bakassi Peninsula beginning on 3 February 1996.

In its request Cameroon referred to the submissions made in its Application of 29 May 1994, supplemented by an Additional Application of 6 June of that year, as also summed up in its Memorial of 16 March 1995, and requested the Court to indicate the following provisional measures:

> "(1) the armed forces of the Parties shall withdraw to the position they were occupying before the Nigerian armed attack of 3 February 1996;
>
> (2) the Parties shall abstain from all military activity along the entire boundary until the judgment of the Court takes place;
>
> (3) the Parties shall abstain from any act or action which might hamper the gathering of evidence in the present case".

Public sittings to hear the oral observations of the Parties on the request for the indication of provisional measures were held between 5 and 8 March 1996.

At a public sitting, held on 15 March 1996, the President of the Court read the Order on the request for provisional measures made by Cameroon (*I.C.J. Reports 1996*, p. 13), by which the Court indicated that "both Parties should ensure that no action of any kind, and particularly no action by their armed forces, is taken which might prejudice the rights of the other in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before it"; that they "should observe the agreement reached between the Ministers for Foreign Affairs in Kara, Togo, on 17 February 1996, for the cessation of all hostilities in the Bakassi Peninsula"; that they "should ensure that the presence of any armed forces in the Bakassi Peninsula does not extend beyond the positions in which they were situated prior to 3 February 1996"; that they "should take all necessary steps to conserve evidence relevant to the present case within the disputed area"; and that they "should lend every assistance to the fact-finding mission which the Secretary-General of the United Nations has proposed to send to the Bakassi Peninsula".

Judges Oda, Shahabuddeen, Ranjeva and Koroma appended declarations to the Order of the Court (*I.C.J. Reports 1996*, pp. 26-27, 28, 29 and 30); Judges Weeramantry, Shi and Vereshchetin appended a joint declaration (*ibid.*, p. 31); Judge *ad hoc* Mbaye also appended a declaration (*ibid.*, pp. 32-34). Judge *ad hoc* Ajibola appended a separate opinion to the Order (*ibid.*, pp. 35-36).

Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by Nigeria were held from 2 to 11 March 1998.

At a public sitting held on 11 June 1998, the Court delivered its Judgment on the preliminary objections (*I.C.J. Reports 1998*, p. 275), by which it rejected seven of Nigeria's eight preliminary objections; declared that the eighth preliminary objection did not have, in the circumstances of the case, an exclusively preliminary character; and found that, on the basis of Article 36, paragraph 2, of the Statute, it had jurisdiction to adjudicate upon the dispute and that the Application filed by Cameroon on 29 March 1994, as amended by the Additional Application of 6 June 1994, was admissible.

Judges Oda, Vereshchetin, Higgins, Parra-Aranguren and Kooijmans appended separate opinions to the Judgment of the Court (*I.C.J. Reports 1998*, pp. 328-341, 342-344, 345-349, 350-353 and 354-361); Vice-President Weeramantry, Judge Koroma and Judge *ad hoc* Ajibola appended dissenting opinions (*ibid.*, pp. 362-376, 377-391 and 392-418).

By an Order of 30 June 1998 (*I.C.J. Reports 1998*, p. 420), the Court, having been informed of the views of the Parties, fixed 31 March 1999 as the time-limit for the filing of the Counter-Memorial of Nigeria.

On 28 October Nigeria filed a request for an interpretation of the Court's Judgment on preliminary objections of 11 June 1998. (Since a request for interpretation of a Judgment of the Court forms a separate case, see below, p. 225).

On 23 February 1999 Nigeria made a request for extension of the time-limit for the deposit of its Counter-Memorial, because it would "not be in a position to complete its Counter-Memorial until it [knew] the outcome of its request for interpretation as it [did] not at present know the scope of the case it [had] to answer on State responsibility". By a letter of 27 February 1999 the Agent of Cameroon informed the Court that his Government "[was] resolutely opposed to the granting of Nigeria's request", as its dispute with Nigeria "call[ed] for a rapid decision".

By an Order of 3 March 1999 (*I.C.J. Reports 1999*, p. 24), the Court considering that although a request for interpretation "cannot in itself suffice to justify the extension of a time-limit, it should nevertheless, given the circumstances of the case, grant Nigeria's request" extended to 31 May 1999 the time-limit for the filing of Nigeria's Counter-Memorial. The Counter-Memorial was filed within the time-limit thus extended.

The Counter-Memorial included counter-claims, specified in Part VI. At the end of each section dealing with a particular sector of the frontier, the Nigerian Government asked the Court to declare that the incidents referred to

> "engage the international responsibility of Cameroon, with compensation in the form of damages, if not agreed between the parties, then to be awarded by the Court in a subsequent phase of the case";

The seventh and final submission set out by the Nigerian Government in its Counter-Memorial reads as follows:

> "*as to Nigeria's counter-claims as specified in Part VI of this Counter-Memorial*, [the Court is asked to] adjudge and declare that Cameroon bears responsibility to Nigeria in respect of those claims, the amount of reparation due therefor, if not agreed between the parties within six months of the date of judgment, to be determined by the Court in a further judgment".

In an Order of 30 June 1999 (*I.C.J. Reports 1999*, p. 983) the Court found that Nigeria's counter-claims were admissible as such and formed part of the proceedings; it further decided that Cameroon should submit a Reply and Nigeria a Rejoinder, relating to the claims of both Parties, and fixed the time-limits for those pleadings at 4 April 2000 and 4 January 2001 respectively.

On 30 June 1999 the Republic of Equatorial Guinea filed a request for permission to intervene in the case.

In its request, Equatorial Guinea stated that the purpose of its intervention would be "to protect [its] legal rights in the Gulf of Guinea by all legal means" and "to inform the Court of Equatorial Guinea's legal rights and interests so that these may remain unaffected as the Court proceeds to address the question of the maritime boundary between Cameroon and Nigeria". Equatorial Guinea made it clear that it did not seek to intervene in those aspects of the proceedings that relate to the land boundary between Cameroon and Nigeria, nor to become a party to the case. It further stated that, although it would be open to the three countries to request the Court not only to determine the Cameroon-

Nigeria maritime boundary but also to determine Equatorial Guinea's maritime boundary with these two States. Equatorial Guinea had made no such request and wished to continue to seek to determine its maritime boundary with its neighbours by negotiation.

The Court fixed 16 August 1999 as the time-limit for the filing of written observations on Equatorial Guinea's request by Cameroon and Nigeria.

8. *Fisheries Jurisdiction* (*Spain* v. *Canada*)

On 28 March 1995 the Kingdom of Spain filed in the Registry of the Court an Application instituting proceedings against Canada with respect to a dispute relating to the Canadian Coastal Fisheries Protection Act, as amended on 12 May 1994, and to the implementing regulations of that Act, as well as to certain measures taken on the basis of that legislation, more particularly the boarding on the high seas, on 9 March 1995, of a fishing boat, the *Estai*, sailing under the Spanish flag.

The Application indicated, *inter alia*, that by the amended Act "an attempt was made to impose on all persons on board foreign ships a broad prohibition on fishing in the NAFO [Northwest Atlantic Fisheries Organization] Regulatory Area that is, on the high seas, outside Canada's exclusive economic zone"; that the Act "expressly permits (Art. 8) the use of force against foreign fishing boats in the zones that Article 2.1 unambiguously terms the 'high seas' "; that the implementing regulations of 25 May 1994 provided, in particular, for "the use of force by fishery protection officers against the foreign fishing boats covered by those regulations . . . which infringe their mandates in the zone of the high seas within the scope of those regulations"; and that the implementing regulations of 3 March 1995 "expressly permit . . . such conduct as regards Spanish and Portuguese ships on the high seas".

The Application alleged the violation of various principles and norms of international law and stated that there was a dispute between the Kingdom of Spain and Canada which, going beyond the framework of fishing, seriously affected the very principle of the freedom of the high seas and, moreover, implied a very serious infringement of the sovereign rights of Spain.

As a basis of the Court's jurisdiction, the Applicant referred to the declarations of Spain and of Canada made in accordance with Article 36, paragraph 2, of the Statute of the Court.

In that regard, the Application specified that:

> "The exclusion of the jurisdiction of the Court in relation to disputes which may arise from management and conservation measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area and the enforcement of such measures (Declaration of Canada, para. 2 (*d*), introduced as recently as 10 May 1994, two days prior to the amendment of the Coastal Fisheries Protection

> Act), does not even partially affect the present dispute. Indeed, the Application of the Kingdom of Spain does not refer exactly to the disputes concerning those measures, but rather to their origin, to the Canadian legislation which constitutes their frame of reference. The Application of Spain directly attacks the title asserted to justify the Canadian measures and their actions to enforce them, a piece of legislation which, going a great deal further than the mere management and conservation of fishery resources, is in itself an internationally wrongful act of Canada, as it is contrary to the fundamental principles and norms of international law; a piece of legislation which for that reason does not fall exclusively within the jurisdiction of Canada either, according to its own Declaration (para. 2 *(c)* thereof). Moreover, only as from 3 March 1995 has an attempt been made to extend that legislation, in a discriminatory manner, to ships flying the flags of Spain and Portugal, which has led to the serious offences against international law set forth above."

While expressly reserving the right to modify and extend the terms of the Application, as well as the grounds invoked, and the right to request the appropriate provisional measures, the Kingdom of Spain requested:

> "(A) that the Court declare that the legislation of Canada, in so far as it claims to exercise a jurisdiction over ships flying a foreign flag on the high seas, outside the exclusive economic zone of Canada, is not opposable to the Kingdom of Spain;
>
> (B) that the Court adjudge and declare that Canada is bound to refrain from any repetition of the acts complained of, and to offer to the Kingdom of Spain the reparation that is due, in the form of an indemnity the amount of which must cover all the damages and injuries occasioned; and
>
> (C) that, consequently, the Court declare also that the boarding on the high seas, on 9 March 1995, of the ship *Estai* flying the flag of Spain, and the measures of coercion and the exercise of jurisdiction over that ship and over its captain constitute a concrete violation of the aforementioned principles and norms of international law."

By a letter dated 21 April 1995, the Ambassador of Canada to the Netherlands informed the Court that, in the view of his Government, the Court manifestly lacked jurisdiction to deal with the Application filed by Spain by reason of paragraph 2 *(d)* of the Declaration, dated 10 May 1994, whereby Canada accepted the compulsory jurisdiction of the Court. Paragraph 2 *(d)* provides:

> "(2) I declare that the Government of Canada accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the

> Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:
>
> . . . .
>
> (*d*) disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures."

Taking into account an agreement concerning the procedure reached between the Parties at a meeting with the President of the Court, held on 27 April 1995, the President, by an Order of 2 May 1995 (*I.C.J. Reports 1995*, p. 87), decided that the written proceedings should first be addressed to the question of the jurisdiction of the Court to entertain the dispute and fixed 29 September 1995 as the time-limit for the filing of the Memorial of the Kingdom of Spain and 29 February 1996 for the filing of the Counter-Memorial of Canada. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

Spain chose Mr. Santiago Torres-Bernárdez and Canada Mr. Marc Lalonde to sit as judges *ad hoc*.

The Spanish Government subsequently expressed its wish to be authorized to file a Reply; the Canadian Government opposed this. By an Order of 8 May 1996 (*I.C.J. Reports 1996*, p. 58), the Court, considering that it was "sufficiently informed, at this stage, of the contentions of fact and law on which the Parties rely with respect to its jurisdiction in the case and whereas the presentation by them of other written pleadings on that question therefore does not appear necessary", decided by fifteen votes to two, not to authorize the filing of a Reply by the Applicant and a Rejoinder by the Respondent on the question of jurisdiction.

Judge Vereshchetin and Judge *ad hoc* Torres-Bernárdez voted against; the latter appended a dissenting opinion to the Order (*I.C.J. Reports 1996*, p. 61).

Public sittings to hear the oral arguments of the Parties on the question of the jurisdiction of the Court were held between 9 and 17 June 1998.

At a public sitting held on 4 December 1998, the Court delivered its Judgment on jurisdiction (*I.C.J. Reports 1998*, p. 432), a summary of which is given below, followed by the text of the operative paragraph:

Review of the proceedings and submissions of the Parties (paras. 1-12)

The Court begins by recalling the history of the case and by quoting the requests made by Spain in its Application (see above, p. 205).

It continues by noting that in the oral proceedings, the following submissions were presented by the Parties:

On behalf of the Spanish Government, at the sitting of 15 June 1998:

"At the end of our oral arguments, we again note that Canada has abandoned its allegation that the dispute between itself and Spain has become moot. At least, it appears to have understood that it cannot be asserted that the Spanish Application, having no further purpose for the future, merely amounted to a request for a declaratory judgment. Nor does it say — a fact of which we take note — that the agreement between the European Union and Canada has extinguished the present dispute.

Spain's final submissions are therefore as follows:

We noted at the outset that the subject-matter of the dispute is Canada's lack of title to act on the high seas against vessels flying the Spanish flag, the fact that Canadian fisheries legislation cannot be invoked against Spain, and reparation for the wrongful acts perpetrated against Spanish vessels. These matters are not included in Canada's reservation to the jurisdiction of the Court.

We also noted that Canada cannot claim to subordinate the application of its reservation to the sole criterion of its national legislation and its own appraisal without disregarding your competence, under Article 36, paragraph 6, of the Statute, to determine your own jurisdiction.

Lastly, we noted that the use of force in arresting the *Estai* and in harassing other Spanish vessels on the high seas, as well as the use of force contemplated in Canadian Bills C-29 and C-8, can also not be included in the Canadian reservation, because it contravenes the provisions of the Charter.

For all the above reasons, we ask the Court to adjudge and declare that it has jurisdiction in this case."

On behalf of the Canadian Government, at the sitting of 17 June 1998:

"*May it please the Court* to adjudge and declare that the Court has no jurisdiction to adjudicate upon the Application filed by Spain on 28 March 1995."

Background to the case (paras. 13-22)

The Court begins with an account of the background to the case.

On 10 May 1994 Canada deposited with the Secretary-General of the United Nations a new declaration of acceptance of the compulsory jurisdiction of the Court. Canada's prior declaration of 10 September 1985 had already contained the three reservations set forth in subparagraphs *(a)*, *(b)* and *(c)* of paragraph 2 of the new declaration. Subparagraph *(d)* of the 1994 declaration, however, set out a new, fourth reservation, further excluding from the jurisdiction of the Court

"*(d)* disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing

> in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures".

On the same day that the Canadian Government deposited its new declaration, it submitted to Parliament Bill C-29 amending the Coastal Fisheries Protection Act by extending its area of application to include the Regulatory Area of the Northwest Atlantic Fisheries Organization (NAFO). Bill C-29 was adopted by Parliament, and received the Royal Assent on 12 May 1994. The Coastal Fisheries Protection Regulations were also amended, on 25 May 1994, and again on 3 March 1995, when Spanish and Portuguese fishing vessels were taken up in Table IV of Section 21 (the category of fishing vessels which were prohibited from fishing for Greenland halibut in the area concerned).

On 12 May 1994, following the adoption of Bill C-8, Canada also amended Section 25 of its Criminal Code relating to the use of force by police officers and other peace officers enforcing the law. This Section applied as well to fisheries protection officers.

On 9 March 1995, the *Estai*, a fishing vessel flying the Spanish flag and manned by a Spanish crew, was intercepted and boarded some 245 miles from the Canadian coast, in Division 3L of the NAFO Regulatory Area (Grand Banks area), by Canadian Government vessels. The vessel was seized and its master arrested on charges of violations of the Coastal Fisheries Protection Act and its implementing regulations. They were brought to the Canadian port of St. John's, Newfoundland, where they were charged with offences under the above legislation, and in particular illegal fishing of Greenland halibut; part of the ship's catch was confiscated. The members of the crew were released immediately. The master was released on 12 March 1995, following the payment of bail, and the vessel on 15 March 1995, following the posting of a bond.

The same day that the *Estai* was boarded, the Spanish Embassy in Canada sent two Notes Verbales to the Canadian Department of Foreign Affairs and International Trade. The second of these stated, *inter alia*, that:

> "the Spanish Government categorically condemn[ed] the pursuit and harassment of a Spanish vessel by vessels of the Canadian navy, in flagrant violation of the international law in force, since these acts [took] place outside the 200-mile zone".

In its turn, on 10 March 1995 the Canadian Department of Foreign Affairs and International Trade sent a Note Verbale to the Spanish Embassy in Canada, in which it was stated that "[t]he *Estai* resisted the efforts to board her made by Canadian inspectors in accordance with international practice" and that "the arrest of the *Estai* was necessary in order to put a stop to the overfishing of Greenland halibut by Spanish fishermen".

Also on 10 March 1995, the European Community and its member States sent a Note Verbale to the Canadian Department of Foreign

Affairs and International Trade which protested against the Canadian action.

On 16 April 1995, an "Agreement constituted in the form of an Agreed Minute, an Exchange of Letters, an Exchange of Notes and the Annexes thereto between the European Community and Canada on fisheries in the context of the NAFO Convention" was initialled; this Agreement was signed in Brussels on 20 April 1995. It concerned "the establishment of a Protocol to strengthen the NAFO Conservation and Enforcement Measures"; the immediate implementation on a provisional basis, of certain control and enforcement measures; the total allowable catch for 1995 for Greenland halibut within the area concerned; and certain management arrangements for stocks of this fish.

The Agreed Minutes further provided as follows:

> "The European Community and Canada maintain their respective positions on the conformity of the amendment of 25 May 1994 to Canada's Coastal Fisheries Protection Act, and subsequent regulations, with customary international law and the NAFO Convention. Nothing in this Agreed Minute shall prejudice any multilateral convention to which the European Community and Canada, or any Member State of the European Community and Canada, are parties, or their ability to preserve and defend their rights in conformity with international law, and the views of either Party with respect to any question relating to the Law of the Sea."

The European Community emphasized that the stay of prosecution against the vessel *Estai* and its master was essential for the application of the Agreed Minute.

On 18 April 1995 the proceedings against the *Estai* and its master were discontinued by order of the Attorney-General of Canada; on 19 April 1995 the bond was discharged and the bail was repaid with interest; and subsequently the confiscated portion of the catch was returned. On 1 May 1995 the Coastal Fisheries Protection Regulations were amended so as to remove Spain and Portugal from Table IV to Section 21. Finally, the Proposal for Improving Fisheries Control and Enforcement, contained in the Agreement of 20 April 1995, was adopted by NAFO at its annual meeting held in September 1995 and became measures binding on all Contracting Parties with effect from 29 November 1995.

The subject of the dispute (paras. 23-35)

Neither of the Parties denies that there exists a dispute between them. Each Party, however, characterizes the dispute differently. Spain has characterized the dispute as one relating to Canada's lack of entitlement to exercise jurisdiction on the high seas, and the non-opposability of its amended Coastal Fisheries Protection legislation and regulations to third States, including Spain. Spain further maintains that Canada, by its conduct, has violated Spain's rights under international law and that such violation entitles it to reparation. Canada states that the dispute concerns the adoption of measures for the conservation and management of fisheries stocks with respect to vessels fishing in the NAFO Regulatory Area and their enforcement.

Spain insists that it is free, as the Applicant in this case, to characterize the dispute that it wishes the Court to resolve.

The Court begins by observing that there is no doubt that it is for the Applicant, in its Application, to present to the Court the dispute with which it wishes to seise the Court and to set out the claims which it is submitting to it. Paragraph 1 of Article 40 of the Statute of the Court requires moreover that the "subject of the dispute" be indicated in the Application; and, for its part, paragraph 2 of Article 38 of the Rules of Court requires "the precise nature of the claim" to be specified in the Application. In a number of instances in the past the Court has had occasion to refer to these provisions. It has characterized them as "essential from the point of view of legal security and the good administration of justice".

In order to identify its task in any proceedings instituted by one State against another, the Court must begin by examining the Application. However, it may happen that uncertainties or disagreements arise with regard to the real subject of the dispute with which the Court has been seised, or to the exact nature of the claims submitted to it. In such cases the Court cannot be restricted to a consideration of the terms of the Application alone nor, more generally, can it regard itself as bound by the claims of the Applicant.

It is for the Court itself, while giving particular attention to the formulation of the dispute chosen by the Applicant, to determine on an objective basis the dispute dividing the parties, by examining the position of both Parties. It will base itself not only on the Application and final submissions, but on diplomatic exchanges, public statements and other pertinent evidence.

In order to decide on the preliminary issue of jurisdiction which arises in the present case, the Court will ascertain the dispute between Spain and Canada, taking account of Spain's Application, as well as the various written and oral pleadings placed before the Court by the Parties.

The filing of the Application was occasioned by specific acts of Canada which Spain contends violated its rights under international law. These acts were carried out on the basis of certain enactments and regulations adopted by Canada, which Spain regards as contrary to international law and not opposable to it. It is in that context that the legislative enactments and regulations of Canada should be considered. The specific acts which gave rise to the present dispute are the Canadian activities on the high seas in relation to the pursuit of the *Estai*, the means used to accomplish its arrest and the fact of its arrest, and the detention of the vessel and arrest of its master, arising from Canada's amended Coastal Fisheries Protection Act and implementing regulations. The essence of the dispute between the Parties is whether these acts violated Spain's rights under international law and require reparation. The Court must now decide whether the Parties have conferred upon it jurisdiction in respect of that dispute.

The jurisdiction of the Court (paras. 36-84)

As Spain sees it, Canada has in principle accepted the jurisdiction of the Court through its declaration under Article 36, paragraph 2, of the Statute, and it is for Canada to show that the reservation contained in paragraph 2 *(d)* thereto does exempt the dispute between the Parties from this jurisdiction. Canada, for its part, asserts that Spain must bear the burden of showing why the clear words of paragraph 2 *(d)* do not withhold this matter from the jurisdiction of the Court.

The Court points out that the establishment or otherwise of jurisdiction is not a matter for the parties but for the Court itself. Although a party seeking to assert a fact must bear the burden of proving it, this has no relevance for the establishment of the Court's jurisdiction, which is a "question of law to be resolved in the light of the relevant facts". That being so, there is no burden of proof to be discharged in the matter of jurisdiction.

Declarations of acceptance of the Court's compulsory jurisdiction and their interpretation (paras. 39-56)

As the basis of jurisdiction, Spain founded its claim solely on the declarations made by the Parties pursuant to Article 36, paragraph 2, of the Statute. On 21 April 1995 Canada informed the Court, by letter, that in its view the Court lacked jurisdiction to entertain the Application because the dispute was within the plain terms of the reservation in paragraph 2 *(d)* of the Canadian declaration of 10 May 1994. This position was elaborated in its Counter-Memorial of February 1996, and confirmed at the hearings. From the arguments brought forward by Spain the Court concludes that Spain contends that the interpretation of paragraph 2 *(d)* of its declaration sought for by Canada would not only be an anti-statutory interpretation, but also an anti-Charter interpretation and an anti-general international law interpretation, and thus should not be accepted. The issue for the Court is consequently to determine whether the meaning to be accorded to the Canadian reservation allows the Court to declare that it has jurisdiction to adjudicate upon the dispute brought before it by Spain's Application.

Different views were proffered by the Parties as to the rules of international law applicable to the interpretation of reservations to optional declarations made under Article 36, paragraph 2, of the Statute. In Spain's view, such reservations were not to be interpreted so as to allow reserving States to undermine the system of compulsory jurisdiction. Moreover, the principle of effectiveness meant that a reservation must be interpreted by reference to the object and purpose of the declaration, which was the acceptance of the compulsory jurisdiction of the Court. Spain did not accept that it was making the argument that reservations to the compulsory jurisdiction of the Court should be interpreted restrictively; it explained its position in this respect in the following terms:

> "It is said that Spain argues for the *most restrictive scope permitted* of reservations, namely a restrictive interpretation of them . . . This is not true. Spain supports the most limited scope permitted in the context of observing of the general rule of interpretation laid down in Article 31 of the Vienna Convention on the Law of Treaties."

Spain further contended that the *contra proferentem* rule, under which, when a text is ambiguous, it must be construed against the party who drafted it, applied in particular to unilateral instruments such as declarations of acceptance of the compulsory jurisdiction of the Court and the reservations which they contained. Finally, Spain emphasized that a reservation to the acceptance of the Court's jurisdiction must be interpreted so as to be in conformity with, rather than contrary to, the Statute of the Court, the Charter of the United Nations and general international law. For its part, Canada emphasized the unilateral nature of such declarations and reservations and contended that the latter were to be interpreted in a natural way, in context and with particular regard for the intention of the reserving State.

The Court recalls that the interpretation of declarations made under Article 36, paragraph 2, of the Statute, and of any reservations they contain, is directed to establishing whether mutual consent has been given to the jurisdiction of the Court. It is for each State, in formulating its declaration, to decide upon the limits it places upon its acceptance of the jurisdiction of the Court: "This jurisdiction only exists within the limits within which it has been accepted." Conditions or reservations thus do not by their terms derogate from a wider acceptance already given. Rather, they operate to define the parameters of the State's acceptance of the compulsory jurisdiction of the Court. There is thus no reason to interpret them restrictively. This is true even when, as in the present case, the relevant expression of a State's consent to the Court's jurisdiction, and the limits to that consent, represent a modification of an earlier expression of consent, given within wider limits; it is the declaration in existence that alone constitutes the unity to be interpreted, with the same rules of interpretation applicable to all its provisions, including those containing reservations.

The régime relating to the interpretation of declarations made under Article 36 of the Statute which are unilateral acts of State sovereignty is not identical with that established for the interpretation of treaties by the Vienna Convention on the Law of Treaties. In the event, the Court has in earlier cases elaborated the appropriate rules for the interpretation of declarations and reservations.

In accordance with those rules the Court will interpret the relevant words of a declaration including a reservation contained therein in a natural and reasonable way, having due regard to the intention of the

State concerned at the time when it accepted the compulsory jurisdiction of the Court. The intention of a reserving State may be deduced not only from the text of the relevant clause, but also from the context in which the clause is to be read, and an examination of evidence regarding the circumstances of its preparation and the purposes intended to be served. In the present case the Court has such explanations in the form of Canadian ministerial statements, parliamentary debates, legislative proposals and press communiqués.

It follows from the foregoing analysis that the *contra proferentem* rule has no role to play in this case in interpreting the reservation contained in the unilateral declaration made by Canada under Article 36, paragraph 2, of the Statute.

The Court was also addressed by both Parties on the principle of effectiveness. Certainly, this principle has an important role in the law of treaties and in the jurisprudence of this Court; however, what is required in the first place for a reservation to a declaration made under Article 36, paragraph 2, of the Statute, is that it should be interpreted in a manner compatible with the effect sought by the reserving State.

Spain has contended that, in case of doubt, reservations contained in declarations are to be interpreted consistently with legality and that any interpretation which is inconsistent with the Statute of the Court, the Charter of the United Nations or with general international law is inadmissible. Spain argues that, to comply with these precepts, it is necessary to interpret the phrase "disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area . . . and the enforcement of such measures" to refer only to measures which, since they relate to areas of the high seas, must come within the framework of an existing international agreement or be directed at stateless vessels. It further argues that an enforcement of such measures which involves a recourse to force on the high seas against vessels flying flags of other States could not be consistent with international law and that this factor too requires an interpretation of the reservation different from that given to it by Canada.

The Court observes that Spain's position is not in conformity with the principle of interpretation whereby a reservation to a declaration of acceptance of the compulsory jurisdiction of the Court is to be interpreted in a natural and reasonable way, with appropriate regard for the intentions of the reserving State and the purpose of the reservation. In point of fact, reservations from the Court's jurisdiction may be made by States for a variety of reasons; sometimes precisely because they feel vulnerable about the legality of their position or policy. Nowhere in the Court's case-law has it been suggested that interpretation in accordance with the legality under international law of the matters exempted from the jurisdiction of the Court is a rule that governs the interpretation of such reservations. There is a fundamental distinction between the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law. The former requires consent. The latter question can only be reached when the Court deals with the merits, after having established its jurisdiction and having heard full legal argument by both parties. Whether or not States accept the jurisdiction of the Court, they remain in all cases responsible for acts attributable to them that violate the rights of other States. Any resultant disputes are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties.

Subparagraph (d) *of paragraph 2 of Canada's declaration of 10 May 1994* (paras. 57-84)

In order to determine whether the Parties have accorded to the Court jurisdiction over the dispute brought before it, the Court must now interpret subparagraph *(d)* of paragraph 2 of Canada's declaration, having regard to the rules of interpretation which it has just set out.

Before commencing its examination of the text of the reservation itself, the Court observes that the new declaration differs from its predecessor in one respect only: the addition, to paragraph 2, of a subparagraph *(d)* containing the reservation in question. It follows that this reservation is not only an integral part of the current declaration but also an essential component of it, and hence of the acceptance by Canada of the Court's compulsory jurisdiction.

The Court further notes, in view of the facts as summarized above, the close links between Canada's new declaration and its new coastal fisheries protection legislation, as well as the fact that it is evident from the parliamentary debates and the various statements of the Canadian authorities that the purpose of the new declaration was to prevent the Court from exercising its jurisdiction over matters which might arise with regard to the international legality of the amended legislation and its implementation.

The Court recalls that subparagraph 2 *(d)* of the Canadian declaration excludes the Court's jurisdiction in the following terms:

> "disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures".

Canada contends that the dispute submitted to the Court is precisely of the kind envisaged by the cited text; it falls entirely within the terms of the subparagraph and the Court accordingly has no jurisdiction to entertain it. For Spain, on the other hand, whatever Canada's intentions, they were not achieved by the words of the reservation, which does not cover the dispute; thus the Court has jurisdiction. In support of this view Spain relies on four main arguments: first, the dispute which it has brought before the Court falls outside the terms of the Canadian reservation by reason of its subject-matter; secondly, the amended Coastal Fisheries Protection Act and its implementing regulations cannot, in international law, constitute "conservation and management measures"; thirdly, the reservation covers only "vessels" which are stateless or flying a flag of convenience; and fourthly, the pursuit, boarding and seizure of the *Estai* cannot be regarded in international law as "the enforcement of . . ." conservation and management "measures". The Court examines each of these arguments in turn.

Meaning of the term "disputes arising out of or concerning" (paras. 62-63)

The Court begins by pointing out that, in excluding from its jurisdiction *"disputes arising out of or concerning"* the conservation and management measures in question and their enforcement, the reservation does not reduce the criterion for exclusion to the "subject-matter" of the dispute. The words of the reservation — *"disputes arising out of or concerning"* — exclude not only disputes whose immediate "subject-matter" is the measures in question and their enforcement, but also those *"concerning"* such measures and, more generally, those having their "origin" in those measures (*"arising out of"*) — that is to say, those disputes which, in the absence of such measures, would not have come into being.

The Court has already found, in the present case, that a dispute does exist between the Parties, and it has identified that dispute. It must now determine whether that dispute has as its subject-matter the measures mentioned in the reservation or their enforcement, or both, or concerns those measures, or arises out of them. In order to do this, the fundamental question which the Court must now decide is the meaning to be given to the expression *"conservation and management measures . . ."* and *"enforcement of such measures"* in the context of the reservation.

Meaning of "conservation and management measures" (paras. 64-73)

Spain recognizes that the term *"measure"* is "an abstract word signifying an act or provision, a démarche or the course of an action, conceived with a precise aim in view" and that in consequence, in its most general sense, the expression *"conservation and management measure"* must be understood as referring to an act, step or proceeding designed for the purpose of the "conservation and management of fish". However, in Spain's view this expression, in the particular context of the Canadian reservation, must be interpreted more restrictively. Spain's main argument, on which it relied throughout the proceedings, is that the term "conservation and management measures" must be interpreted here in accordance with international law and that in consequence it must, in particular, exclude any unilateral "measure" by a State which adversely affected the rights of other States outside that State's own area of jurisdiction. Hence, in international law only two types of measures taken by a coastal State could, in practice, be regarded as "conservation and management measures": those relating to the State's exclusive economic zone; and those relating to areas outside that zone, in so far as these came within the framework of an international agreement or were directed at stateless vessels. Measures not satisfying these conditions were not conservation and management measures but unlawful acts pure and simple.

Canada, by contrast, stresses the very wide meaning of the word "measure". It takes the view that this is a "generic term", which is used in international conventions to encompass statutes, regulations and administrative action. Canada further argues that the expression "conservation and management measures" is "descriptive" and not "normative"; it covers "the whole range of measures taken by States with respect to the living resources of the sea".

The Court points out that it need not linger over the question whether a "measure" may be of a "legislative" nature. As the Parties have themselves agreed, in its ordinary sense the word is wide enough to cover any act, step or proceeding, and imposes no particular limit on their material content or on the aim pursued thereby. Numerous international conventions include "laws" among the "measures" to which they refer. The Court further points out that, in the Canadian legislative system as in that of many other countries, a statute and its implementing regulations cannot be dissociated. The statute establishes the general legal framework and the regulations permit the application of the statute to meet the variable and changing circumstances through a period of time. The regulations implementing the statute can have no legal existence independently of that statute, while conversely the statute may require implementing regulations to give it effect.

The Court shares with Spain the view that an international instrument must be interpreted by reference to international law. However, in arguing that the expression "conservation and management measures" as used in the Canadian reservation can apply only to measures "in conformity with international law", Spain would appear to mix two issues. It is one thing to seek to determine whether a concept is known to a system of law, in this case international law, whether it falls within the categories proper to that system and whether, within that system, a particular meaning attaches to it: the question of the existence and content of the concept within the system is a matter of definition. It is quite another matter to seek to determine whether a specific act falling within the scope of a concept known to a system of law violates the normative rules of that system: the question of the conformity of the act with the system is a question of legality.

According to international law, in order for a measure to be characterized as a "conservation and management measure", it is sufficient that its purpose is to conserve and manage living resources and that, to this end, it satisfies various technical requirements. It is in this sense that the terms "conservation and management measures" have long been understood by States in the treaties which they conclude. The same usage is to be found in the practice of States. Typically, in their enactments and administrative acts. States describe such measures by reference to factual and scientific criteria.

Reading the words of the reservation in a "natural and reasonable" manner, there is nothing which permits the Court to conclude that Canada intended to use the expression "conservation and management measures" in a sense different from that generally accepted in international law and practice. Moreover, any other interpretation of that expression would deprive the reservation of its intended effect.

After an examination of the amendments made by Canada on 12 May 1994 to the Coastal Fisheries Protection Act and on 25 May 1994 and 3 March 1995 to the Coastal Fisheries Protection Regulations the Court concludes that the "measures" taken by Canada in amending its coastal fisheries protection legislation and regulations constitute "conservation and management measures" in the sense in which that expression is commonly understood in international law and practice and has been used in the Canadian reservation.

Meaning to be attributed to the word "vessels" (paras. 74-77)

The Court goes on to observe that the conservation and management measures to which this reservation refers are measures *"taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978"*. As the NAFO "Regulatory Area" as defined in the Convention is indisputably part of the high seas, the only remaining issue posed by this part of the reservation is the meaning to be attributed to the word "vessels".

Spain argues that it is clear from the parliamentary debates which preceded the adoption of Bill C-29 that the latter was intended to apply only to stateless vessels or to vessels flying a flag of convenience. It followed, according to Spain — in view of the close links between the Act and the reservation — that the latter also covered only measures taken against such vessels. Canada accepts that, when Bill C-29 was being debated, there were a number of references to stateless vessels and to vessels flying flags of convenience, for at the time such vessels posed the most immediate threat to the conservation of the stocks that it sought to protect. However, Canada denies that its intention was to restrict the scope of the Act and the reservation to these categories of vessels.

The Court observes that the Canadian reservation refers to "vessels fishing . . .", that is to say all vessels fishing in the area in question, without exception. It would clearly have been simple enough for Canada, if this had been its real intention, to qualify the word "vessels" so as to restrict its meaning in the context of the reservation. In the opinion of the Court the interpretation proposed by Spain cannot be accepted, for it runs contrary to a clear text, which, moreover, appears to express the intention of its author. Neither can the Court share the conclusions drawn by Spain from the parliamentary debates cited by it.

Meaning and scope of the phrase "and the enforcement of such measures" (paras. 78-84)

The Court then examines the phrase *"and the enforcement of such measures"*, on the meaning and scope of which the Parties disagree. Spain contends that an exercise of jurisdiction by Canada over a Spanish vessel on the high seas entailing the use of force falls outside of Canada's reservation to the Court's jurisdiction.

The Court notes that, following the adoption of Bill C-29, the provisions of the Coastal Fisheries Protection Act are of a character and type to be found in legislation of various nations dealing with fisheries conservation and management, as well as in Article 22 (1) *(f)* of the United Nations Agreement on Straddling Stocks of 1995. The limitations on the use of force specified in the Coastal Fisheries Protection Regulations Amendment of May 1994 also bring the authorized use of force within the category familiar in connection with enforcement of conservation measures. The Court further notes that the purpose of other Canadian enactments referred to by Spain appears to have been to control and limit any authorized use of force, thus bringing it within the general category of measures in enforcement of fisheries conservation.

For all of these reasons the Court finds that the use of force authorized by the Canadian legislation and regulations falls within the ambit of what is commonly understood as enforcement of conservation and management measures and thus falls under the provisions of paragraph 2 *(d)* of Canada's declaration. This is so notwithstanding that the reservation does not in terms mention the use of force. Boarding, inspection, arrest and minimum use of force for those purposes are all contained within the concept of enforcement of conservation and management measures according to a "natural and reasonable" interpretation of this concept.

The Court concludes by stating that in its view the dispute between the Parties, as it has been identified in this Judgment, had its origin in the amendments made by Canada to its coastal fisheries protection legislation and regulations and in the pursuit, boarding and seizure of the *Estai* which resulted therefrom. Equally, the Court has no doubt that the said dispute is very largely concerned with these facts. Having regard to the legal characterization placed by the Court upon those facts, it concludes that the dispute submitted to it by Spain constitutes a dispute "arising out of" and "concerning" "conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area" and "the enforcement of such measures". It follows that this dispute comes within the terms of the reservation contained in paragraph 2 *(d)* of the Canadian declaration of 10 May 1994. The Court consequently has no jurisdiction to adjudicate upon the present dispute.

Operative paragraph (para. 89):

> "For these reasons,
>
> THE COURT,
>
> By twelve votes to five,
>
> *Finds* that it has no jurisdiction to adjudicate upon the dispute brought before it by the Application filed by the Kingdom of Spain on 28 March 1995.
>
> IN FAVOUR: *President* Schwebel; *Judges* Oda, Guillaume, Herczegh, Shi, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc Lalonde;
>
> AGAINST: *Vice-President* Weeramantry; *Judges* Bedjaoui, Ranjeva, Vereshchetin; *Judge* ad hoc Torres Bernárdez."

*

President Schwebel and Judges Oda, Koroma and Kooijmans appended separate opinions to the Judgment (*I.C.J. Reports 1998*, pp. 470-473, 474-485, 486-488 and 489-495); Vice-President Weeramantry, Judges Bedjaoui, Ranjeva and Vereshchetin and Judge *ad hoc* Torres Bernárdez appended dissenting opinions (*ibid.*, pp. 496-515, 516-552, 553-569, 570-581 and 582-738).

9. *Kasikili/Sedudu Island (Botswana/Namibia)*

On 29 May 1996 the Government of the Republic of Botswana and the Government of the Republic of Namibia notified jointly to the Registrar of the Court a Special Agreement between the two States signed at Gaborone on 15 February 1996 and which came into force on 15 May 1996, for the submission to the Court of the dispute existing between them concerning the boundary around Kasikili/Sedudu Island and the legal status of that island.

The Special Agreement refers to a Treaty between Great Britain and Germany respecting the spheres of influence of the two countries, signed on 1 July 1890, and to the appointment, on 24 May 1992, of a Joint Team of Technical Experts "to determine the boundary between Namibia and Botswana around Kasikili/Sedudu Island" on the basis of that Treaty and of the applicable principles of international law. Unable to reach a conclusion on the question the Joint Team of Technical Experts recommended "recourse to the peaceful settlement of the dispute on the basis of the applicable rules and principles of international law". At the Summit Meeting held in Harare, Zimbabwe, on 15 February 1995, President Masire of Botswana and President Nujoma of Namibia agreed "to submit the dispute to the International Court of Justice for a final and binding determination".

Under the terms of the Special Agreement, the Parties ask the Court to "determine, on the basis of the Anglo-Germany Treaty of 1 July 1890 and the rules and principles of international law, the boundary between Namibia and Botswana around Kasikili/Sedudu Island and the legal status of the island".

By an Order of 24 June 1996 (*I.C.J. Reports 1996*, p. 63), the Court fixed 28 February and 28 November 1997 respectively as the time-limits for the filing by each of the Parties of a Memorial and a Counter-Memorial. A Memorial and a Counter-Memorial were filed by each of the Parties within the prescribed time-limits.

In a joint letter dated 16 February 1998 the Parties requested further written pleadings pursuant to Article II, paragraph 2 *(c)*, of the Special Agreement, which provides, in addition to the Memorials and Counter-Memorials, for "such other pleadings as may be approved by the Court at the request of either of the Parties, or as may be directed by the Court".

By an Order of 27 February 1998 (*I.C.J. Reports 1998*, p. 6), the Court, taking into account the agreement between the Parties, fixed 27 November 1998 as the time-limit for the filing of a Reply by each of the Parties. These Replies were filed within the prescribed time-limit.

Public sittings to hear the oral arguments of the Parties were held from 15 February to 5 March 1999.

At the time of preparation of this Report, the Court was deliberating on its Judgment.

10. Vienna Convention on Consular Relations (Paraguay v. United States of America)

On 3 April 1998 the Republic of Paraguay filed in the Registry of the Court an Application instituting proceedings against the United States of America in a dispute concerning alleged violations of the Vienna Convention on Consular Relations of 24 April 1963. Paraguay based the jurisdiction of the Court on Article 36, paragraph 1, of the Court's Statute and on Article I of the Optional Protocol concerning the Compulsory Settlement of Disputes which accompanies the Vienna Convention on Consular Relations, and which provides that "disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice".

In the Application it was stated that in 1992 the authorities of the Commonwealth of Virginia had arrested a Paraguayan national, Mr. Angel Francisco Breard; that he had been charged, tried, convicted of culpable homicide and sentenced to death by a Virginia court (the Circuit Court of Arlington County) in 1993, without having been informed, as is required under Article 36, subparagraph 1 *(b)*, of the Vienna Convention, of his rights under that provision; it was specified that among these rights were the right to request that the relevant consular office of the State of which he was a national be advised of his arrest and detention and the right to communicate with that office; it was further alleged that the authorities of the Commonwealth of Virginia also had not advised the Paraguayan consular officers of Mr. Breard's detention, and that those officers had only been able to render assistance to him from 1996, when the Paraguayan Government had learnt by its own means that Mr. Breard had been imprisoned in the United States.

Paraguay further stated that Mr. Breard's subsequent petitions before federal courts in order to seek a writ of *habeas corpus* had failed, the federal court of first instance having, on the basis of the doctrine of "procedural default", denied him the right to invoke the Vienna Convention for the first time before that court, and the intermediate federal appellate court having confirmed that decision; that consequently, the Virginia court that sentenced Mr. Breard to the death penalty had set an execution date of 14 April 1998; that Mr. Breard, having exhausted all means of legal recourse available to him as of right, had petitioned the United States Supreme Court for a writ of *certiorari*, requesting it to exercise its discretionary power to review the decision given by the lower federal courts and to grant a stay of his execution pending that review, and that, while this request was still pending before the Supreme Court, it was however rare for that Court to accede to such requests; Paraguay stated, moreover, that it brought proceedings itself before the federal courts of the United States as early as 1996, with a view to obtaining the annulment of the proceedings initiated against Mr. Breard, but both the federal court of first instance and the federal appellate court held that they had no jurisdiction in the case because it was barred by a doctrine conferring "sovereign immunity" on federated states; that Paraguay had also filed a petition for a writ of *certiorari* in the Supreme Court, which was also still pending; and that Paraguay had furthermore engaged in diplomatic efforts with the Government of the United States and sought the good offices of the Department of State.

Paraguay maintained that by violating its obligations under Article 36, subparagraph 1 *(b)*, of the Vienna Convention, the United States had prevented Paraguay from exercising the consular functions provided for in Articles 5 and 36 of the Convention and specifically for ensuring the protection of its interests and of those of its nationals in the United States; Paraguay stated that it had not been able to contact Mr. Breard nor to offer him the necessary assistance, and that accordingly Mr. Breard had "made a number of objectively unreasonable decisions during the criminal proceedings against him, which were conducted without translation"; and had not comprehended "the fundamental differences between the criminal justice systems of the United States and Paraguay"; Paraguay concluded from this that it was entitled to *restitutio in integrum*, that is to say "the re-establishment of the situation that existed before the United States failed to provide the notifications . . . required by the Convention".

Paraguay requested the Court to adjudge and declare as follows:

"(1) that the United States, in arresting, detaining, trying, convicting, and sentencing Angel Francisco Breard, as described in the preceding statement of facts, violated its international legal obligations to Paraguay, in its own right and in the exercise of its right of diplomatic protection of its national, as provided by Articles 5 and 36 of the Vienna Convention;

(2) that Paraguay is therefore entitled to *restitutio in integrum*;

(3) that the United States is under an international legal obligation not to apply the doctrine of 'procedural default', or any other doctrine of its internal law, so as to preclude the exercise of the rights accorded under Article 36 of the Vienna Convention; and

(4) that the United States is under an international legal obligation to carry out in conformity with the foregoing international legal obligations any future detention of or criminal proceedings against Angel Francisco Breard or any other Paraguayan national in its territory, whether by a constituent, legislative, executive, judicial or other power, whether that power holds a superior or a subordinate position in the organization of the United States, and whether that power's functions are of an international or internal character;

and that, pursuant to the foregoing international legal obligations,

(1) any criminal liability imposed on Angel Francisco Breard in violation of international legal obligations is void, and should be recognized as void by the legal authorities of the United States;

(2) the United States should restore the *status quo ante*, that is, re-establish the situation that existed before the detention of, proceedings against, and conviction and sentencing of Paraguay's national in violation of the United States' international legal obligations took place; and

(3) the United States should provide Paraguay a guarantee of the non-repetition of the illegal acts".

On the same day, 3 April 1998, Paraguay "in view of the extreme gravity and immediacy of the threat that the authorities . . . will execute a Paraguayan citizen", submitted an urgent request for the indication of provisional measures, asking that, pending final judgment in the case, the Court indicate:

"*(a)* that the Government of the United States take the measures necessary to ensure that Mr. Breard not be executed pending the disposition of this case;

(b) that the Government of the United States report to the Court the actions it has taken in pursuance of subparagraph *(a)* immediately above and the results of those actions; and

(*c*) that the Government of the United States ensure that no action is taken that might prejudice the rights of the Republic of Paraguay with respect to any decision this Court may render on the merits of the case."

By identical letters dated 3 April 1998, the Vice-President of the Court, Acting President, addressed both Parties in the following terms:

> "Exercising the functions of the presidency in terms of Articles 13 and 32 of the Rules of Court, and acting in conformity with Article 74, paragraph 4, of the said Rules, I hereby draw the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects";

At a meeting held the same day with the representatives of both Parties, he advised them that the Court would hold public hearings on 7 April 1998 at 10 a.m., in order to afford the Parties the opportunity of presenting their observations on the request for provisional measures.

After those hearings had been held, the Vice-President of the Court, Acting President, at a public sitting of 9 April 1998, read the Order on the request for provisional measures made by Paraguay (*I.C.J. Reports 1998*, p. 248), by which the Court unanimously indicated that the United States had to take all measures at its disposal to ensure that Angel Francisco Breard would not be executed pending the final decision in the proceedings, and had to inform the Court of all the measures which it had taken in implementation of that Order; and decided that, until the Court had given its final decision, it should remain seised of the matters which formed the subject-matter of that Order.

President Schwebel and Judges Oda and Koroma appended declarations to the Order of the Court (*I.C.J. Reports 1998*, pp. 259, 260-262 and 263-264).

By an Order of the same day, 9 April 1998 (*I.C.J. Reports 1998*, p. 266), the Vice-President of the Court, Acting President, taking into account the Court's Order on provisional measures, in which it is stated that "it is appropriate that the Court, with the co-operation of the Parties, ensure that any decision on the merits be reached with all possible expedition" and a subsequent agreement between the Parties, fixed 9 June 1998 as the time-limit for the Memorial of Paraguay and 9 September 1998 for the Counter-Memorial of the United States.

In response to a request from Paraguay made in the light of the execution of Mr. Breard, and taking into account an agreement on extension of time-limits reached by the Parties, the Vice-President, Acting President, by an Order of 8 June 1998 (*I.C.J. Reports 1998*, p. 272), extended the above-mentioned time-limits to 9 October 1998 and 9 April 1999 respectively. Paraguay's Memorial was filed within the time-limit thus extended.

By a letter of 2 November 1998 Paraguay informed the Court that it wished to discontinue the proceedings with prejudice and requested that the case be removed from the List.

After the United States had informed the Court that it concurred in Paraguay's request, the Court, in an Order of 10 November 1998 (*I.C.J. Reports 1998*, p. 426), placed the discontinuance by Paraguay on record and ordered the removal of the case from the List.

11. *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon *v.* Nigeria), Preliminary Objections *(Nigeria* v. *Cameroon)*

On 28 October 1998, the Federal Republic of Nigeria filed in the Registry of the Court an Application instituting proceedings against the Republic of Cameroon dated 21 October 1998, whereby it requested the Court to interpret the Judgment delivered by the Court on 11 June 1998 in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria), Preliminary Objections.*

Since a request for the interpretation of a judgment is made either by an application or by the notification of a special agreement, it gives rise to a new case. Nigeria's request, which does not fall into the category of incidental proceedings, does not therefore form part of the current proceedings in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)* (see above, p. 199).

In its request, Nigeria set out that "One aspect of the case before the Court is the alleged international responsibility borne by Nigeria for certain incidents said to have occurred at various places in Bakassi and Lake Chad and along the length of the frontier between those two regions". Nigeria contended that Cameroon had made "allegations involving a number of such incidents in its Application of 29 March 1994, its Additional Application of 6 June 1994, its Observations of 30 April 1996 on Nigeria's Preliminary Objections, and during the oral hearings held from 2 to 11 March 1998", and that Cameroon had also said that it "would be able to provide information as to other incidents on some unspecified future occasion". In the view of Nigeria, the Court's Judgment "[did] not specify which of these alleged incidents [were] to be considered as part of the merits of the case" and accordingly, "the meaning and scope of the Judgment require[d] interpretation".

The full text of Nigeria's submissions read as follows:

> "Nigeria requests the Court to adjudge and declare that the Court's Judgment of 11 June 1998 is to be interpreted as meaning that:
>
> so far as concerns the international responsibility which Nigeria is said to bear for certain alleged incidents:

(*a*) the dispute before the Court does not include any alleged incidents other than (at most) those specified in Cameroon's Application of 29 March 1994 and Additional Application of 6 June 1994;

(*b*) Cameroon's freedom to present additional facts and legal considerations relates (at most) only to those specified in Cameroon's Application of 29 March 1994 and Additional Application of 6 June 1994; and

(*c*) the question whether facts alleged by Cameroon are established or not relates (at most) only to those specified in Cameroon's Application of 29 March 1994 and Additional Application of 6 June 1994."

The Senior Judge, Acting President, fixed 3 December 1998 as the time-limit for Cameroon to submit its written observations on Nigeria's request for interpretation. Those written observations were filed within the time-limit fixed. In the light of the dossier thus submitted, the Court did not deem it necessary to invite the Parties to furnish further written or oral explanations.

Nigeria chose Prince Bola Ajibola and Cameroon Mr. Kéba Mbaye to sit as judges *ad hoc* in the case.

At a public sitting held on 25 March 1999, the Court delivered its Judgment on the request for interpretation (*I.C.J. Reports 1999*, p. 31), a summary of which is given below, followed by the text of the operative paragraph:

History of the proceedings and submissions of the Parties (paras. 1-7)

The Court begins by recalling the history of the case and by quoting the submissions presented by Nigeria in its Application (see above).

It continues by noting that the following submissions were presented by Cameroon in its written observations:

> "On these grounds,
>
> Having regard to the Request for Interpretation submitted by the Federal Republic of Nigeria dated 21 October 1998, the Republic of Cameroon makes the following submissions:
>
> 1. The Republic of Cameroon leaves it to the Court to decide whether it has jurisdiction to rule on a request for interpretation of a decision handed down following incidental proceedings and, in particular, with regard to a judgment concerning the preliminary objections raised by the defending Party;
>
> 2. The Republic of Cameroon requests the Court:
>
> *Primarily:*
>
> To declare the request by the Federal Republic of Nigeria inadmissible; to adjudge and declare that there is no reason to interpret the Judgment of 11 June 1998;

– *Alternatively:*

To adjudge and declare that the Republic of Cameroon is entitled to rely on all facts, irrespective of their date, that go to establish the continuing violation by Nigeria of its international obligations; that the Republic of Cameroon may also rely on such facts to enable an assessment to be made of the damage it has suffered and the adequate reparation that is due to it."

The Court's jurisdiction over Nigeria's request for interpretation (paras. 8-11)

The Court first addresses the question of its jurisdiction over the request for interpretation submitted by Nigeria. Nigeria states that, in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*, Cameroon alleged that Nigeria bore international responsibility "for certain incidents said to have occurred at various places at Bakassi and Lake Chad and along the length of the frontier between those two regions". Nigeria contends that the Court's Judgment of 11 June 1998 does not specify "which of these alleged incidents are to be considered further as part of the merits of the case". Thus Nigeria maintains that the Judgment "is unclear [as to] whether Cameroon was entitled at various times, after the submission of its Amended Application, to bring before the Court new incidents". Nigeria further emphasizes "the inadmissibility of treating as part of the dispute brought before the Court by the Applications of March and June 1994 alleged incidents occurring subsequently to June 1994". The Judgment of 11 June 1998 was accordingly to be interpreted as meaning "that so far as concerns the international responsibility [of] Nigeria . . . the dispute before the Court does not include any alleged incidents other than (at most) those specified in [the] Application . . . and Additional Application".

Cameroon, for its part, recalls in its written observations that, in its Judgment of 11 June 1998, the Court rejected seven of Nigeria's preliminary objections and stated that the eighth objection was not of an exclusively preliminary character; the Court further recognized that it had jurisdiction to adjudicate upon the dispute and found that the Application of Cameroon of 29 March 1994, as amended by the Additional Application of 6 June 1994, was admissible. Cameroon declares that the Parties "do not have to 'apply' such a judgment; they only have to take note of it". While leaving the question to the appreciation of the Court, it states that "there are very serious doubts about the possibility of bringing a request for interpretation of a judgment concerning preliminary objections".

The Court observes that Article 60 of the Statute provides: "The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party." By virtue of the second sentence of Article 60, the Court has jurisdiction to entertain requests for interpretation of any judgment rendered by it. This provision makes no distinction as to the type of judgment concerned. It follows, therefore, that a judgment on preliminary objections, just as well as a judgment on the merits, can be the object of a request for interpretation. However, "the second sentence of Article 60 was inserted in order, if necessary, to enable the Court to make quite clear the points which had been settled with binding force in a judgment, . . . a request which has not that object does not come within the terms of this provision" (*Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów), Judgment No. 11, 1927, P.C.I.J., Series A, No. 13*, p. 11). In consequence any request for interpretation must relate to the operative part of the judgment and cannot concern the reasons for the judgment except in so far as these are inseparable from the operative part.

The Court then recalls that in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria*, Nigeria had put forward a sixth preliminary objection "to the effect that there is no basis for a judicial determination that Nigeria bears international responsibility for alleged frontier incursions"; and that in the operative part of its Judgment of 11 June 1998 the Court rejects the sixth preliminary objection. The reasons for this are set out in paragraphs 98 to 101 of the Judgment. These deal in detail with Cameroon's rights as regards the presentation of "facts and legal considerations" that it might wish to put forward in support of its submissions seeking a ruling against Nigeria. These reasons are inseparable from the operative part of the Judgment and in this regard the request therefore meets the conditions laid down by Article 60 of the Statute in order for the Court to have jurisdiction to entertain a request for interpretation of a judgment.

The admissibility of Nigeria's request (paras. 12-16)

The Court then examines the admissibility of Nigeria's request. It observes that the question of the admissibility of requests for interpretation of the Court's judgments needs particular attention because of the need to avoid impairing the finality, and delaying the implementation, of these judgments. It is not without reason that Article 60 of the Statute lays down, in the first place, that judgments are "final and without appeal". The language and structure of Article 60 reflect the primacy of the principle of *res judicata*. That principle must be maintained.

The Court then recalls that in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria*, Cameroon, in its Application as amended by its Additional Application, complained in 1994 "of grave and repeated incursions of Nigerian groups and armed forces into Cameroonian territory all along the frontier between the two countries". It further requested the Court to adjudge that the "internationally unlawful acts" alleged to have occurred in the Bakassi and Lake Chad regions involve the responsibility of Nigeria. Cameroon developed these submissions in its Memorial of 1995 and its observations of 1996, mentioning some incidents having occurred in other frontier areas or after the date of the Additional Application. To these submissions. Nigeria raised its sixth objection to admissibility. It considered that Cameroon must "essentially confine itself to the facts . . . presented in its Application"; and concluded that any subsequent attempt to enlarge the scope of the case was inadmissible and that "additions" presented subsequently with a view to establishing Nigeria's responsibility must be disregarded.

The Court points out that by its Judgment of 11 June 1998, it rejected Nigeria's sixth preliminary objection, and explained that "[t]he decision on Nigeria's sixth preliminary objection hinges upon the question of whether the requirements which an application must meet and which are set out in Article 38, paragraph 2, of the Rules of Court are met", adding that the term "succinct" used in Article 38, paragraph 2, of the Rules does not mean "complete" and does not preclude later additions to the statement of the facts and grounds on which the claim is based. The Court reiterates that the question of the conditions for the admissibility of an application at the time of its introduction, and the question of the admissibility of the presentation of additional facts and legal grounds, are two different things. In its Judgment of 11 June 1998, the Court indicated that the limit of the freedom to present additional facts and legal considerations is that there must be no transformation of the dispute brought before the Court by the application into another dispute which is different in character. With regard to Nigeria's sixth preliminary objection, the Judgment of 11 June 1998 has concluded that "[i]n this case, Cameroon has not so transformed the dispute" and that Cameroon's Application met the requirements of Article 38 of the Rules (*I.C.J. Reports 1998*, p. 319, para. 100). Thus, the Court made no distinction between "incidents" and "facts"; it found that additional incidents constitute additional facts, and that their introduction in proceedings before the Court is governed by the same rules. In this respect there is no need for the Court to stress that it has and will strictly apply the principle of *audi alteram partem*. It follows from the foregoing that the Court has already clearly dealt with and rejected, in its Judgment of 11 June 1998, the first of the three submissions (submission *(a)*) presented by Nigeria at the end of its request for interpretation.

The Court would therefore be unable to entertain this first submission without calling into question the effect of the Judgment concerned as *res judicata*. The two other submissions (*(b)* and *(c)*), endeavour to remove from the Court's consideration elements of law and fact which it has, in its Judgment of 11 June 1998, already authorized Cameroon to present, or which Cameroon has not yet put forward. In either case, the Court would be unable to entertain these submissions. It follows from the foregoing that Nigeria's request for interpretation is inadmissible.

The Court, in view of the conclusions reached above, finds that there is no need for it to examine whether there is, between the Parties, a "dispute as to the meaning or scope of the judgment" of 11 June 1998, as contemplated by Article 60 of the Statute.

Cost of the proceedings (para. 18)

With regard to Cameroon's request that Nigeria be charged with the additional costs caused to Cameroon by Nigeria's request, the Court sees no reason to depart in the present case from the general rule set forth in Article 64 of the Statute, which confirms the "basic principle regarding the question of costs in contentious proceedings before international tribunals, to the effect that each party shall bear its own" (*Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal, Advisory Opinion, I.C.J. Reports 1973*, p. 212, para. 98).

Operative paragraph (para. 19):

> "For these reasons,
>
> THE COURT,
>
> (1) By thirteen votes to three,
>
> *Declares* inadmissible the request for interpretation of the Judgment of 11 June 1998 in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections*, presented by Nigeria on 28 October 1998;
>
> IN FAVOUR: *President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans; *Judge* ad hoc Mbaye;
>
> AGAINST: *Vice-President* Weeramantry; *Judge* Koroma; *Judge* ad hoc Ajibola;
>
> (2) Unanimously,
>
> *Rejects* Cameroon's request that Nigeria bear the additional costs caused to Cameroon by the above-mentioned request for interpretation."

*

Vice-President Weeramantry, Judge Koroma and Judge *ad hoc* Ajibola appended dissenting opinions to the Judgment (*I.C.J. Reports 1999*, pp. 42-48, 49-53 and 54-60).

12. Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)

On 2 November 1998, the Republic of Indonesia, and Malaysia jointly notified to the Court a Special Agreement between the two States, signed at Kuala Lumpur on 31 May 1997 and having entered into force on 14 May 1998, in which they request the Court

> "to determine on the basis of the treaties, agreements and any other evidence furnished by the Parties, whether sovereignty over Pulau Ligitan and Pulau Sipadan belongs to the Republic of Indonesia or to Malaysia";

By an order of 10 November 1998 (*I.C.J. Reports 1998*, p. 429), the Court, taking into account the provisions of the Special Agreement on the written pleadings, fixed 2 November 1999 and 2 March 2000 respectively as the time-limits for the filing by each of the Parties of a Memorial and a Counter-Memorial.

13. Ahmadou Sadio Diallo (Republic of Guinea v. *Democratic Republic of the Congo)*

On 28 December 1998 the Republic of Guinea instituted proceedings against the Democratic Republic of the Congo by an "Application with a view to diplomatic protection", in which it requested the Court to "condemn the Democratic Republic of the Congo for the grave breaches of international law perpetrated upon the person of a Guinean national", Mr. Ahmadou Sadio Diallo.

According to Guinea, Mr. Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for 32 years, was "unlawfully imprisoned by the authorities of that State" during two and a half months, "divested from his important investments, companies, bank accounts, movable and immovable properties, then expelled" on 2 February 1996 as a result of his attempts to recover sums owed to him by the Democratic Republic of the Congo (especially by Gécamines, a State enterprise with a monopoly with regard to mining) and by oil companies operating in that country (Zaire Shell, Zaire Mobil and Zaire Fina) by virtue of contracts concluded with businesses owned by him, Africom-Zaire and Africaontainers-Zaire.

As a basis of the Court's jurisdiction, Guinea invoked its own declaration of acceptance of the compulsory jurisdiction of the Court, of 11 November 1998, and the declaration of the Democratic Republic of the Congo of 8 February 1989.

14. LaGrand (Germany v. *United States of America)*

On 2 March 1999 the Federal Republic of Germany filed in the Registry of the Court an Application instituting proceedings against the United States of America for "violations of the Vienna Convention on Consular Relations [of 24 April 1963]" allegedly committed by the United States.

In the Application Germany based the jurisdiction of the Court on Article 36, paragraph 1, of the Statute of the Court and on Article I of the Optional Protocol concerning the Compulsory Settlement of Disputes, which accompanies the Vienna Convention on Consular Relations ("the Optional Protocol").

In the Application, Germany stated that in 1982 the authorities of the State of Arizona detained two German nationals, Karl and Walter LaGrand; that these individuals were tried and sentenced to death without having been informed, as was required under Article 36, subparagraph 1 *(b)*, of the Vienna Convention, of their rights under that provision (which requires the competent authorities of a State party to advise, "without delay", a national of another State party whom such authorities arrest or detain of the national's right to consular assistance guaranteed by Article 36). Germany also alleged that the failure to provide the required notification precluded it from protecting its nationals' interests in the United States provided for by Articles 5 and 36 of the Vienna Convention at both the trial and the appeal level in the United States courts.

Germany stated that it had been, until very recently, the contention of the authorities of the State of Arizona that they had been unaware of the fact that Karl and Walter LaGrand were nationals of Germany; and that it had accepted that contention as true. However, during the proceedings before the Arizona Mercy Committee on 23 February 1999, the State Attorney admitted that the authorities of the State of Arizona had indeed been aware since 1982 that the two detainees were German nationals. Germany further stated that Karl and Walter LaGrand, finally with the assistance of German consular officers, did claim violations of the Vienna Convention before the Federal Court of First Instance; that that court, applying the municipal law doctrine of "procedural default", decided that, because the individuals in question had not asserted their rights under the Vienna Convention in the previous legal proceedings at State level, they could not assert them in the Federal *habeas corpus* proceedings; and that the intermediate federal appellate court, last means of legal recourse in the United States available to them as of right, affirmed this decision.

The Federal Republic of Germany asked the Court to adjudge and declare:

"(1) that the United States, in arresting, detaining, trying, convicting and sentencing Karl and Walter LaGrand, as described in the preceding statement of facts, violated its international legal obligations to Germany, in its own right and in its right of diplomatic protection of its nationals, as provided by Articles 5 and 36 of the Vienna Convention,

(2) that Germany is therefore entitled to reparation,

(3) that the United States is under an international legal obligation not to apply the doctrine of 'procedural default' or any other

doctrine of national law, so as to preclude the exercise of the rights accorded under Article 36 of the Vienna Convention;

and

(4) that the United States is under an international obligation to carry out in conformity with the foregoing international legal obligations any future detention of or criminal proceedings against any other German national in its territory, whether by a constituent, legislative, executive, judicial or other power, whether that power holds a superior or subordinate position in the organization of the United States, and whether that power's functions are of an international or internal character;

and that, pursuant to the foregoing international legal obligations,

(1) the criminal liability imposed on Karl and Walter LaGrand in violation of international legal obligations is void, and should be recognized as void by the legal authorities of the United States;

(2) the United States should provide reparation, in the form of compensation and satisfaction, for the execution of Karl LaGrand on 24 February 1999;

(3) the United States should restore the *status quo ante* in the case of Walter LaGrand, that is re-establish the situation that existed before the detention of, proceedings against, and conviction and sentencing of that German national in violation of the United States' international legal obligation took place; and

(4) the United States should provide Germany a guarantee of the non-repetition of the illegal acts".

On 2 March 1999 Germany also submitted an urgent request for the indication of provisional measures.

In its request, Germany referred to the basis of jurisdiction of the Court invoked in its Application, and to the facts set out and the submissions made therein; it affirmed in particular that the United States had violated its obligations under the Vienna Convention.

Germany further recalled that Karl LaGrand had been executed on 24 February 1999, despite all appeals for clemency and numerous diplomatic interventions by the German Government at the highest level; that the date of execution of Walter LaGrand in the State of Arizona had been set for 3 March 1999; and that the request for the urgent indication of provisional measures was submitted in the interest of this latter individual. Germany emphasized that:

> "The importance and sanctity of an individual human life are well established in international law. As recognized by Article 6 of the International Covenant on Civil and Political Rights, every human being has the inherent right to life and this right shall be protected by law".

It added the following:

> "Under the grave and exceptional circumstances of this case, and given the paramount interest of Germany in the life and liberty of its nationals, provisional measures are urgently needed to protect the life of Germany's national Walter LaGrand and the ability of this Court to order the relief to which Germany is entitled in the case of Walter LaGrand, namely restoration of the *status quo ante*. Without the provisional measures requested, the United States will execute Walter LaGrand – as it did execute his brother Karl – before this Court can consider the merits of Germany's claims, and Germany will be forever deprived of the opportunity to have the *status quo ante* restored in the event of a judgment in its favour".

Germany asked the Court to indicate that:

> "The United States should take all measures at its disposal to ensure that Walter LaGrand is not executed pending the final decision in these proceedings, and should inform the Court of all the measures which it has taken in implementation of that Order";

it asked the Court moreover to consider its request as a matter of the greatest urgency "in view of the extreme gravity and immediacy of the threat of execution of a German citizen".

By a letter dated also 2 March 1999, the Vice-President of the Court addressed the Government of the United States in the following terms:

> "Exercising the functions of the presidency in terms of Articles 13 and 32 of the Rules of Court, and acting in conformity with Article 74, paragraph 4, of the said Rules, I hereby draw the attention of [the] Government [of the United States] to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

At a public sitting held on 3 March 1999, the Court rendered its Order on the request for the indication of provisional measures (*I.C.J. Reports 1999*, p. 9), a summary of which is given below, followed by the text of the operative paragraph.

History of the case and submissions (paras. 1-12)

The Court begins by recalling the history of the case and by quoting the submissions presented by Germany in its Application. It further refers to Germany's request for the indication of provisional measures and to the letter of 2 March 1999, which the Vice-President of the Court addressed to the Government of the United States of America (see above).

It then continues by recalling that on 3 March 1999, at 9.00 a.m. (The Hague time), the Vice-President of the Court received the representatives of the Parties in order to obtain information from them with regard to the subsequent course of the proceedings. The representative of the

German Government stated that the Governor of the State of Arizona had rejected a recommendation by the Mercy Committee that the execution of Walter LaGrand should be stayed, so that the latter would in consequence be executed that same day at 3.00 p.m. (Phoenix time); he emphasized the extreme urgency of the situation; and referring to the provisions of Article 75 of the Rules of Court, he asked the Court to indicate forthwith, and without holding any hearing, provisional measures *proprio motu*; the representative of the United States pointed out that the case had been the subject of lengthy proceedings in the United States, that the request for provisional measures submitted by Germany was made at a very late date and that the United States would have strong objections to any procedure such as that proposed only that very morning by the representative of Germany which would result in the Court making an Order *proprio motu* without having first duly heard the two Parties.

The Court's reasoning (paras. 13-28)

The Court begins by pointing out that on a request for the indication of provisional measures the Court need not, before deciding whether or not to indicate them, finally satisfy itself that it has jurisdiction on the merits of the case, but that it may not indicate them unless the provisions invoked by the Applicant appear, prima facie, to afford a basis on which the jurisdiction of the Court might be founded.

It notes that Article I of the Optional Protocol, which Germany invokes as the basis of jurisdiction of the Court in this case, is worded as follows:

> "Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a Party to the present Protocol";

and that both Germany and the United States are parties to the Vienna Convention and to the Optional Protocol.

The Court observes that in its Application Germany stated that the issues in dispute between itself and the United States concern Articles 5 and 36 of the Vienna Convention and fall within the compulsory jurisdiction of the Court under Article I of the Optional Protocol.

The Court finds that in the light of the requests submitted by Germany in its Application and of the submissions made therein, there exists prima facie a dispute with regard to the application of the Convention within the meaning of Article I of the Optional Protocol; and that, prima facie, it has jurisdiction under Article I of the aforesaid Optional Protocol to decide the dispute between Germany and the United States.

*

The Court observes that the sound administration of justice requires that a request for the indication of provisional measures founded on Article 73 of the Rules of Court be submitted in good time; that Germany emphasizes that it did not become fully aware of the facts of the case until 24 February 1999 and that since then it has pursued its action at diplomatic level; that, under Article 75, paragraph 1, of its Rules, the Court "may at any time decide to examine *proprio motu* whether the circumstances of the case require the indication of provisional measures which ought to be taken or complied with by any or all of the parties"; that a provision of this kind has substantially featured in the Rules of Court since 1936, and that if the Court has not, to date, made use of the power conferred upon it by this provision, the latter appears nonetheless to be clearly established; that the Court may make use of this power, irrespective of whether or not it has been seised by the parties of a request for the indication of provisional measures; that in such a case it may, in the event of extreme urgency, proceed without holding oral hearings; and that it is for the Court to decide in each case if, in the light of the particular circumstances of the case, it should make use of the said power.

The Court then observes that the power to indicate provisional measures under Article 41 of its Statute is intended to preserve the respective rights of the parties pending its decision; that such measures are only justified if there is urgency and that the Court will not order interim measures in the absence of irreparable prejudice to rights which are the subject of dispute.

The Court then points out that the execution of Walter LaGrand is ordered for 3 March 1999; and that such an execution would cause irreparable harm to the rights claimed by Germany in this particular case.

In doing so the Court observes that the issues before the Court in the present case do not concern the entitlement of the federal states within the United States to resort to the death penalty for the most heinous crimes; and that further, the function of the Court is to resolve international legal disputes between States, *inter alia*, when they arise out of the interpretation or application of international conventions, and not to act as a court of criminal appeal.

*

In the light of the above considerations, the Court finds that the circumstances require it to indicate, as a matter of the greatest urgency and without any other proceedings, provisional measures in accordance with Article 41 of its Statute and with Article 75, paragraph 1, of its Rules; it recalls that measures indicated by the Court for a stay of execution would necessarily be provisional in nature and would not in any way prejudge findings the Court might make on the merits.

The Court finally observes that the international responsibility of a State is engaged by the action of the competent organs and authorities acting in that State, whatever they may be; that the United States should take all measures at its disposal to ensure that Walter LaGrand is not executed pending the final decision in the proceedings; that according to the information available to the Court, implementation of the measures indicated in the present Order falls within the jurisdiction of the Governor of Arizona; that the Government of the United States is consequently under the obligation to transmit the present Order to the said Governor; and that the Governor of Arizona is under the obligation to act in conformity with the international undertakings of the United States.

Operative paragraph (para. 29):

> "For these reasons,
>
> THE COURT
>
> Unanimously,
>
> I. *Indicates* the following provisional measures:
>
> (*a*) The United States of America should take all measures at its disposal to ensure that Walter LaGrand is not executed pending the final decision in these proceedings, and should inform the Court of all the measures which it has taken in implementation of this Order;
>
> (*b*) The Government of the United States of America should transmit this Order to the Governor of the State of Arizona.
>
> II. *Decides*, that, until the Court has given its final decision, it shall remain seised of the matters which form the subject-matter of this Order."

*

Judge Oda appended a declaration to the Order (*I.C.J. Reports 1999*, pp. 18-20); President Schwebel appended a separate opinion (*I.C.J. Reports 1999*, pp. 21-22).

*

By an Order of 5 March 1999 (*I.C.J. Reports 1999*, p. 28), the Court, taking into account the views of the Parties, fixed 16 September 1999 and 27 March 2000 as the time-limits for the filing of the Memorial of Germany and the Counter-Memorial of the United States respectively.

15-24. *Legality of Use of Force* (*Yugoslavia* v. *Belgium*) (*Yugoslavia* v. *Canada*) (*Yugoslavia* v. *France*) (*Yugoslavia* v. *Germany*) (*Yugoslavia* v. *Italy*) (*Yugoslavia* v. *Netherlands*) (*Yugoslavia* v. *Portugal*) (*Yugoslavia* v. *Spain*) (*Yugoslavia* v. *United Kingdom*) and (*Yugoslavia* v. *United States of America*)

On 29 April 1999 the Federal Republic of Yugoslavia filed in the Registry of the Court Applications instituting proceedings against Belgium, Canada, France, Germany, Italy, the Netherlands, Portugal, Spain, the United Kingdom and the United States of America "for violation of the obligation not to use force".

In those Applications Yugoslavia defined the subject of the dispute as follows:

> "The subject-matter of the dispute are acts of the [respondent State concerned] by which it has violated its international obligation banning the use of force against another State, the obligation not to intervene in the internal affairs of another State, the obligation not to violate the sovereignty of another State, the obligation to protect the civilian population and civilian objects in wartime, the obligation to protect the environment, the obligation relating to free navigation on international rivers, the obligation regarding fundamental human rights and freedoms, the obligation not to use prohibited weapons, the obligation not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group."

As a basis for the jurisdiction of the Court, Yugoslavia referred, in the cases against Belgium, Canada, the Netherlands, Portugal, Spain and the United Kingdom, to Article 36, paragraph 2, of the Statute of the Court and to Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter called the "Genocide Convention"); and, in the cases against France, Germany, Italy and the United States, to Article IX of the Genocide Convention and to Article 38, paragraph 5, of the Rules of Court.

In each of the cases Yugoslavia requested the International Court of Justice to adjudge and declare that:

> "by taking part in the bombing of the territory of the Federal Republic of Yugoslavia, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use force against another State;
>
> by taking part in the training, arming, financing, equipping and supplying terrorist groups, i.e., the so-called 'Kosovo Liberation Army', the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to intervene in the affairs of another State;
>
> by taking part in attacks on civilian targets, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation to spare the civilian population, civilians and civilian objects;
>
> by taking part in destroying or damaging monasteries, monuments of culture, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to commit any act of hostility directed against historical monuments, works of art or places of worship which constitute cultural or spiritual heritage of people;
>
> by taking part in the use of cluster bombs, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia

in breach of its obligation not to use prohibited weapons, i.e., weapons calculated to cause unnecessary suffering;

- by taking part in the bombing of oil refineries and chemical plants, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to cause considerable environmental damage;
- by taking part in the use of weapons containing depleted uranium, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use prohibited weapons and not to cause far-reaching health and environmental damage;
- by taking part in killing civilians, destroying enterprises, communications, health and cultural institutions, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation to respect the right to life, the right to work, the right to information, the right to health care as well as other basic human rights;
- by taking part in destroying bridges on international rivers, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation to respect freedom of navigation on international rivers;
- by taking part in activities listed above, and in particular by causing enormous environmental damage and by using depleted uranium, the [respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to deliberately inflict on a national group conditions of life calculated to bring about its physical destruction, in whole or in part;
- the [respondent State concerned] is responsible for the violation of the above international obligations;
- the [respondent State concerned] is obliged to stop immediately the violation of the above obligations vis-à-vis the Federal Republic of Yugoslavia;
- the [respondent State concerned] is obliged to provide compensation for the damage done to the Federal Republic of Yugoslavia and to its citizens and juridical persons";

On the same day, 29 April 1999, Yugoslavia also submitted, in each of the cases, a request for the indication of provisional measures. It requested the Court to indicate the following measure:

> "The [respondent State concerned] shall cease immediately its acts of use of force and shall refrain from any act of threat or use of force against the Federal Republic of Yugoslavia."

Yugoslavia chose Mr. Milenko Kreća, Belgium Mr. Patrick Duinslaeger, Canada Mr. Marc Lalonde, Italy Mr. Giorgio Gaja, and Spain Mr. Santiago Torres Bernardez to sit as judges *ad hoc* in the case.

Hearings on the requests for the indication of provisional measures were held between 10 and 12 May 1999.

At a public sitting held on 2 June 1999, the Vice-President of the Court, Acting President, read the Orders (*I.C.J. Reports 1999*, pp. 124, 259, 363, 422, 481, 542, 656, 761, 826 and 916). A summary of each of the Orders is given below, followed by the full text of the operative paragraph.

Legality of Use of Force (Yugoslavia v. Belgium)

Background information

On 29 April 1999 Yugoslavia filed an Application instituting proceedings against Belgium "for violation of the obligation not to use force", accusing that State of bombing Yugoslav territory "together with other Member States of NATO". On the same day, it submitted a request for the indication of provisional measures, asking the Court to order Belgium to "cease immediately its acts of use of force" and to "refrain from any act of threat or use of force" against the FRY.

As a basis for the jurisdiction of the Court, Yugoslavia invoked the declarations by which both States had accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court), and Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948. Article IX of the Genocide Convention provides that disputes between the contracting parties relating to the interpretation, application or fulfilment of the Convention shall be submitted to the International Court of Justice. In a supplement to its Application submitted to the Court on 12 May 1999, Yugoslavia invoked, as an additional ground of jurisdiction, Article 4 of the Convention of Conciliation, Judicial Settlement and Arbitration between Belgium and the Kingdom of Yugoslavia, signed at Belgrade on 25 March 1930.

Reasoning of the Court

In its Order, the Court first emphasizes that it is "deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background" of the dispute and "with the continuing loss of life and human suffering in all parts of Yugoslavia". It declares itself "profoundly concerned with the use of force in Yugoslavia", which "under the present circumstances . . . raises very serious issues of international law". While being "mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of peace and security under the Charter and [its] Statute", the Court "deems it necessary to emphasize that all parties before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including humanitarian law".

The Court then points out that it "does not automatically have jurisdiction over legal disputes between States" and that "one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction". It cannot indicate provisional measures without its jurisdiction in the case being established prima facie.

Concerning the first basis of jurisdiction invoked, the Court observes that under the terms of its declaration, Yugoslavia limits its acceptance of the Court's compulsory jurisdiction to "disputes arising or which may arise after the signature of the present Declaration, with regard to the situations or facts subsequent to this signature". It emphasizes that although Belgium did not base any argument on this provision, the Court must consider what effects it might have prima facie upon its jurisdiction. In this regard, the Court states, it is sufficient to decide whether the dispute brought to the Court "arose" before or after 25 April 1999, the date on which the declaration was signed. It finds that the bombings began on 24 March 1999 and have been conducted continuously over a period extending beyond 25 April 1999. The Court has thus no doubt that a "legal dispute . . . 'arose' between Yugoslavia and [Belgium], as it did also with the other NATO member States, well before 25 April 1999". The Court concludes that the declarations made by the Parties do not constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

As to Belgium's argument that Yugoslavia is not a member State of the United Nations in view of United Nations General Assembly resolution 47/1 (1992), nor in consequence a party to the Statute of the Court, so that Yugoslavia cannot subscribe to the optional clause of compulsory jurisdiction, the Court maintains that it need not consider this question, taking into account its finding that the declarations do not constitute a basis of jurisdiction.

Concerning Article IX of the Genocide Convention, the Court states that it is not disputed that both Yugoslavia and Belgium are parties to that Convention, without reservation, and that Article IX accordingly appears to constitute a basis on which the jurisdiction of the Court might be founded. The Court however finds that it must ascertain whether the breaches of the Convention alleged by Yugoslavia are capable of falling within the provisions of that instrument and whether, as a consequence, the dispute is one over which the Court might have jurisdiction *ratione materiae*. In its Application, Yugoslavia contends that the subject of the dispute concerns *inter alia* "acts of the Kingdom of Belgium by which it has violated its international obligation . . . not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". It contends that the sustained and intensive bombing of the whole of its territory, including the most heavily populated areas, constitutes "a serious violation of Article II of the Genocide Convention", that it is the Yugoslav nation as a whole and as such that is targeted and that the use of certain weapons whose long-term hazards to health and the environment are already known, and the destruction of the largest part of the country's power supply system, with catastrophic consequences of which the Respondent must be aware, "impl[y] the intent to destroy, in whole or in part", the Yugoslav national group as such. For its part, Belgium, referring to the definition of genocide contained in the Convention, emphasizes the importance of "the intentional element, the intent to destroy all or part of an ethnic, racial or religious [group]". It asserts that Yugoslavia cannot "produce the slightest evidence of such intention" on the part of Belgium in this case. It appears to the Court that, according to the Convention, the essential characteristic of genocide is the intended destruction of a national, ethnical, racial or religious group; the Court further states that "the threat or use of force against a State cannot in itself constitute an act of genocide within the meaning of Article II of the Genocide Convention". It adds that in its opinion, it does not appear at the present stage of the proceedings that the bombings which form the subject of the Yugoslav Application "indeed entail the element of intent, towards a group as such, required by the provision" mentioned above. The Court considers therefore that it is not in a position to find, at this stage of the proceedings, that the acts imputed by Yugoslavia to Belgium are capable of coming within the provisions of the Genocide Convention; and Article IX cannot accordingly constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

As to Article 4 of the Convention of Conciliation, Judicial Settlement and Arbitration between Belgium and the Kingdom of Yugoslavia, the Court observes that "the invocation by a party of a new basis of jurisdiction in the second round of oral argument on a request for the indication of provisional measures has never before occurred in the Court's practice", that "such action at this late stage, when not accepted by the other party, seriously jeopardizes the principle of procedural fairness and the sound administration of justice" and that in consequence the Court cannot take into consideration this new title of jurisdiction.

The Court having found that it has "no prima facie jurisdiction to entertain Yugoslavia's Application, either on the basis of Article 36, paragraph 2, of the Statute or of Article IX of the Genocide Convention" and having "taken the view that it cannot, at this stage of the proceedings, take account of the additional basis of jurisdiction invoked by Yugoslavia", it follows that the Court "cannot indicate any provisional measure whatsoever". However, the findings reached by the Court "in no way prejudge the question of the jurisdiction of the Court to deal with the merits of the case" and they "leave unaffected the right of the Governments of Yugoslavia and Belgium to submit arguments in respect of those questions"

The Court finally observes that "there is a fundamental distinction between the question of the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law". "The former requires consent; the latter question can only be reached when the Court deals with the merits after having established its jurisdiction and having heard full legal arguments by both parties." It emphasizes that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties". In this context, "the parties should take care not to aggravate or extend the dispute". The Court reaffirms that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter".

Operative paragraph (para. 51):

> "For these reasons,
>
> THE COURT,
>
> (1) By twelve votes to four,
>
> *Rejects* the request for the indication of provisional measures submitted by the Federal Republic of Yugoslavia on 29 April 1999;
>
> IN FAVOUR: *President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans; *Judge* ad hoc Duinslaeger;
>
> AGAINST: *Vice-President* Weeramantry, *Acting President*; *Judges* Shi, Vereshchetin; *Judge* ad hoc Kreca;
>
> (2) By fifteen votes to one,
>
> *Reserves* the subsequent procedure for further decision.
>
> IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *President* Schwebel; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans; *Judges* ad hoc Kreca, Duinslaeger;
>
> AGAINST: *Judge* Oda."

*

Judge Koroma appended a declaration to the Court's Order (*I.C.J. Reports 1999*, pp. 142-143); Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions (*ibid.*, pp. 144-160, 161-170, 171-172 and 173-180; Vice-President Weeramantry, Acting President, Judges Shi and Vereshchetin, and Judge *ad hoc* Kreca appended dissenting opinions (*I.C.J. Reports 1999*, pp. 181-204, 205-208, 209-215 and 216-257).

Legality of Use of Force (Yugoslavia v. Canada)

Background information

On 29 April 1999 Yugoslavia filed an Application instituting proceedings against Canada "for violation of the obligation not to use force", accusing that State of bombing Yugoslav territory "together with other Member States of NATO". On the same day, it submitted a request for the indication of provisional measures, asking the Court to order Canada to "cease immediately its acts of use of force" and to "refrain from any act of threat or use of force" against the FRY.

As a basis for the jurisdiction of the Court, Yugoslavia invoked the declarations by which both States had accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court), and Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948. Article IX of the Genocide Convention provides that disputes between the contracting parties relating to the interpretation, application or fulfilment of the Convention shall be submitted to the International Court of Justice.

Reasoning of the Court

In its Order, the Court first emphasizes that it is "deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background" of the dispute and "with the continuing loss of life and human suffering in all parts of Yugoslavia". It declares itself "profoundly concerned with the use of force in Yugoslavia", which "under the present circumstances . . . raises very serious issues of international law". While being "mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of peace and security under the Charter and [its] Statute", the Court "deems it necessary to emphasize that all parties before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including humanitarian law".

The Court then points out that it "does not automatically have jurisdiction over legal disputes between States" and that "one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction". It cannot indicate provisional measures without its jurisdiction in the case being established prima facie.

Concerning the first basis of jurisdiction invoked, the Court observes that under the terms of its declaration, Yugoslavia limits its acceptance of the Court's compulsory jurisdiction to "disputes arising or which may arise after the signature of the present Declaration, with regard to the situations or facts subsequent to this signature". It states that in order to assess whether it has jurisdiction in the case, it is sufficient to decide whether the dispute brought to the Court "arose" before or after 25 April 1999, the date on which the declaration was signed. It finds that the bombings began on 24 March 1999 and have been conducted continuously over a period extending beyond 25 April 1999. The Court has thus no doubt that a "legal dispute . . . 'arose' between Yugoslavia and [Canada], as it did also with the other NATO member States, well before 25 April 1999". The Court concludes that the declarations made by the Parties do not constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

As to Canada's arguments that Yugoslavia's declaration accepting the compulsory jurisdiction of the Court "is a transparent nullity" and that Yugoslavia is not a member State of the United Nations in view of United Nations Security Council resolution 777 (1992) and United Nations General Assembly resolution 47/1 (1992), nor a party to the Statute of the Court, the Court maintains that it need not consider this question, taking into account its finding that the declarations do not constitute a basis of jurisdiction.

Concerning Article IX of the Genocide Convention, the Court states that it is not disputed that both Yugoslavia and Canada are parties to that Convention, without reservation, and that Article IX accordingly appears to constitute a basis on which the jurisdiction of the Court might be founded. The Court however finds that it must ascertain whether the breaches of the Convention alleged by Yugoslavia are capable of falling within the provisions of that instrument and whether, as a consequence, the dispute is one over which the Court might have jurisdiction *ratione materiae*. In its Application, Yugoslavia contends that the subject of the dispute concerns, *inter alia*, "acts of Canada by which it has violated its international obligation . . . not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". It contends that the sustained and intensive bombing of the whole of its territory, including the most heavily populated areas, constitutes "a serious violation of Article II of the Genocide Convention", that it is the Yugoslav nation as a whole and as such that is targeted and that the use of certain weapons whose long-term hazards to health and the environment are already known, and the destruction of the largest part of the country's power supply system, with catastrophic consequences of which the Respondent must be aware, "impl[y] the intent to destroy, in whole or in part", the Yugoslav national group as such. For its part, Canada contends that "the essence of genocide is *intention* and *destruction* — the destruction of entire populations", that the Applicant "did not even attempt to address the question of intent" and that the concept of genocide cannot be equated with the use of force or even aggression. It appears to the Court that, according to the Convention, the essential characteristic of genocide is the intended destruction of a national, ethnical, racial or religious group; the Court further states that "the threat or use of force against a State cannot in itself constitute an act of genocide within the meaning of Article II of the Genocide Convention". It adds that in its opinion, it does not appear at the present stage of the proceedings that the bombings which form the subject of the Yugoslav Application "indeed entail the element of intent, towards a group as such, required by the provision" mentioned above. The Court considers therefore that it is not in a position to find, at this stage of the proceedings, that the acts imputed by Yugoslavia to Canada are capable of coming within the provisions of the Genocide Convention; and Article IX cannot accordingly constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

The Court concludes that it "lacks prima facie jurisdiction to entertain Yugoslavia's Application" and that it "cannot therefore indicate any provisional measure whatsoever". However, the findings reached by the Court "in no way prejudge the question of the jurisdiction of the Court to deal with the merits of the case" and they "leave unaffected the right of the Governments of Yugoslavia and Canada to submit arguments in respect of those questions".

The Court finally observes that "there is a fundamental distinction between the question of the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law". "The former requires consent; the latter question can only be reached when the Court deals with the merits after having established its jurisdiction and having heard full legal arguments by both parties." It emphasizes that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties". In this context, "the parties should take care not to aggravate or extend the dispute". The Court reaffirms that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter".

Operative paragraph (para. 47):

"For these reasons,

THE COURT,

(1) By twelve votes to four,

Rejects the request for the indication of provisional measures submitted by the Federal Republic of Yugoslavia on 29 April 1999;

IN FAVOUR: *President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans; *Judge* ad hoc Lalonde;

AGAINST: *Vice-President* Weeramantry, *Acting President*; *Judges* Shi, Vereshchetin; *Judge* ad hoc Kreća;

(2) By fifteen votes to one,

Reserves the subsequent procedure for further decision.

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *President* Schwebel; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans; *Judges* ad hoc Lalonde, Kreća;

AGAINST: *Judge* Oda."

*

Judge Koroma appended a declaration to the Court's Order (*I.C.J. Reports 1999*, pp. 276-277); Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions (*ibid.*, pp. 278-294, 295-304, 305-306 and 307-314); Vice-President Weeramantry, Acting President, Judges Shi and Vereshchetin, and Judge *ad hoc* Kreća appended dissenting opinions (*ibid.*, pp. 315, 316-319, 320-326 and 327-361).

Legality of Use of Force (Yugoslavia v. France)

Background information

On 29 April 1999 Yugoslavia filed an Application instituting proceedings against France "for violation of the obligation not to use force", accusing that State of bombing Yugoslav territory "together with other Member States of NATO". On the same day, it submitted a request for the indication of provisional measures, asking the Court to order France to "cease immediately its acts of use of force" and to "refrain from any act of threat or use of force" against the FRY.

As a basis for the jurisdiction of the Court, Yugoslavia invoked Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948, as well as Article 38, paragraph 5, of the Rules of Court. Article IX of the Genocide Convention provides that disputes between the contracting parties relating to the interpretation, application or fulfilment of the Convention shall be submitted to the International Court of Justice. As to Article 38, paragraph 5, of the Rules of Court, it provides that when a State files an application against another State which has not accepted the jurisdiction of the Court, the application is transmitted to that other State, but no action is taken in the proceedings unless and until that State has accepted the Court's jurisdiction for the purposes of the case.

Reasoning of the Court

In its Order, the Court first emphasizes that it is "deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background" of the dispute and "with the continuing loss of life and human suffering in all parts of Yugoslavia". It declares itself "profoundly concerned with the use of force in Yugoslavia", which "under the present circumstances . . . raises very serious issues of international law". While being "mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of peace and security under the Charter and [its] Statute", the Court "deems it necessary to emphasize that all parties before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including humanitarian law".

The Court then points out that it "does not automatically have jurisdiction over legal disputes between States" and that "one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction". It cannot indicate provisional measures without its jurisdiction in the case being established prima facie.

Concerning Article IX of the Genocide Convention, the Court states that it is not disputed that both Yugoslavia and France are parties to that Convention, without reservation, and that Article IX accordingly appears to constitute a basis on which the jurisdiction of the Court might be founded. The Court however finds that it must ascertain whether the breaches of the Convention alleged by Yugoslavia are capable of falling within the provisions of that instrument and whether, as a consequence, the dispute is one over which the Court might have jurisdiction *ratione materiae*.

In its Application, Yugoslavia contends that the subject of the dispute concerns, *inter alia*, "acts of the Republic of France by which it has violated its international obligation . . . not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". It contends that the sustained and intensive bombing of the whole of its territory, including the most heavily populated areas, constitutes "a serious violation of Article II of the Genocide Convention", that it is the Yugoslav nation as a whole and as such that is targeted and that the use of certain weapons whose long-term hazards to health and the environment are already known, and the destruction of the largest part of the country's power supply system, with catastrophic consequences of which the Respondent must be aware, "impl[y] the intent to destroy, in whole or in part", the Yugoslav national group as such. For its part, France contends that the genocide, as defined by the 1948 Convention, consists of two elements: "One objective: the destruction of all or part of a national or religious group as such. The other is subjective: an intention to achieve this result, which is in conflict . . . with 'the most elementary principles of morality'." It asserts that "the NATO forces . . . are making all efforts to ensure that the civilian population suffers no needless harm" and stresses "the manifest absence in this case of the element of intention" and "the total silence of the applicant State" on this point. It appears to the Court that, according to the Convention, the essential characteristic of genocide is the intended destruction of a national, ethnical, racial or religious group; the Court further states that "the threat or use of force against a State cannot in itself constitute an act of genocide within the meaning of Article II of the Genocide Convention".

It adds that in its opinion, it does not appear at the present stage of the proceedings that the bombings which form the subject of the Yugoslav Application "indeed entail the element of intent, towards a group as such, required by the provision" mentioned above. The Court considers therefore that it is not in a position to find, at this stage of the proceedings, that the acts imputed by Yugoslavia to France are capable of coming within the provisions of the Genocide Convention; and Article IX cannot accordingly constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

As to Article 38, paragraph 5, of the Rules of Court, the Court stresses that, in the absence of consent by France, it cannot exercise jurisdiction in the case, even prima facie.

The Court concludes that it "lacks prima facie jurisdiction to entertain Yugoslavia's Application" and that it "cannot therefore indicate any provisional measure whatsoever". However, the findings reached by the Court "in no way prejudge the question of the jurisdiction of the Court to deal with the merits of the case" and they "leave unaffected the right of the Governments of Yugoslavia and France to submit arguments in respect of those questions".

The Court finally observes that "there is a fundamental distinction between the question of the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law".

> "The former requires consent; the latter question can only be reached when the Court deals with the merits after having established its jurisdiction and having heard full legal arguments by both parties."

It emphasizes that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties". In this context, "the parties should take care not to aggravate or extend the dispute". The Court reaffirms that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter".

Operative paragraph (para. 39):

> "For these reasons,
>
> THE COURT,
>
> (1) By twelve votes to three,
>
> *Rejects* the request for the indication of provisional measures submitted by the Federal Republic of Yugoslavia on 29 April 1999;
>
> IN FAVOUR: *Vice-President* Weeramantry, *Acting President; President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans;
>
> AGAINST: *Judges* Shi, Vereshchetin; *Judge* ad hoc Kreća;
>
> (2) By fourteen votes to one,
>
> *Reserves* the subsequent procedure for further decision.
>
> IN FAVOUR: *Vice-President* Weeramantry, *Acting President; President* Schwebel; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans; *Judge* ad hoc Kreća;
>
> AGAINST: *Judge* Oda."

*

Vice-President Weeramantry, Acting President, Judges Shi, Koroma and Vereshchetin appended declarations to the Court's Order (*I.C.J. Reports 1999*, pp. 376, 377-378, 379-380 and 381-382); Judges Oda and Parra-Aranguren appended separate opinions (*ibid.*, pp. 383-399 and 400-401); Judge *ad hoc* Kreća appended a dissenting opinion (*ibid.*, pp. 402-420).

Legality of Use of Force (Yugoslavia v. Germany)

Background information

On 29 April 1999 Yugoslavia filed an Application instituting proceedings against Germany "for violation of the obligation not to use force", accusing that State of bombing Yugoslav territory "together with other Member States of NATO". On the same day, it submitted a request for the indication of provisional measures, asking the Court to order Germany to "cease immediately its acts of use of force" and to "refrain from any act of threat or use of force" against the FRY.

As a basis for the jurisdiction of the Court, Yugoslavia invoked Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948, as well as Article 38, paragraph 5, of the Rules of Court. Article IX of the Genocide Convention provides that disputes between the contracting parties relating to the interpretation, application or fulfilment of the Convention shall be submitted to the International Court of Justice. As to Article 38, paragraph 5, of the Rules of Court, it provides that when a State files an application against another State which has not accepted the jurisdiction of the Court, the application is transmitted to that other State, but no action is taken in the proceedings unless and until that State has accepted the Court's jurisdiction for the purposes of the case.

Reasoning of the Court

In its Order, the Court first emphasizes that it is "deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background" of the dispute and "with the continuing loss of life and human suffering in all parts of Yugoslavia". It declares itself "profoundly concerned with the use of force in Yugoslavia", which "under the present circumstances . . . raises very serious issues of international law". While being "mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of peace and security under the Charter and [its] Statute", the Court "deems it necessary to emphasize that all parties before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including humanitarian law".

The Court then points out that it "does not automatically have jurisdiction over legal disputes between States" and that "one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction". It cannot indicate provisional measures without its jurisdiction in the case being established prima facie.

Concerning Article IX of the Genocide Convention, the Court states that it is not disputed that both Yugoslavia and Germany are parties to that Convention, without reservation, and that Article IX accordingly appears to constitute a basis on which the jurisdiction of the Court might be founded. The Court however finds that it must ascertain whether the breaches of the Convention alleged by Yugoslavia are capable of falling within the provisions of that instrument and whether, as a consequence, the dispute is one over which the Court might have jurisdiction *ratione materiae*. In its Application, Yugoslavia contends that the subject of the dispute concerns, *inter alia*, "acts of the Federal Republic of Germany by which it has violated its international obligation . . . not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". It contends that the sustained and intensive bombing of the whole of its territory, including the most heavily populated areas, constitutes "a serious violation of Article II of the Genocide Convention", that it is the Yugoslav nation as a whole and as such that is targeted and that the use of certain weapons whose long-term hazards to health and the environment are already known, and the destruction of the largest part of the country's power supply system, with catastrophic consequences of which the Respondent must be aware, "impl[y] the intent to destroy, in whole or in part", the Yugoslav national group as such. For its part, Germany contends that even if true, the breaches of international obligations alleged by Yugoslavia in its Application do not enter the definition of Article II of the Genocide Convention. It appears to the Court that, according to the Convention, the essential characteristic of genocide is the intended destruction of a national, ethnical, racial or religious group; the Court further states that "the threat or use of force against a State cannot in itself constitute an act of genocide within the meaning of Article II of the Genocide Convention". It adds that in its opinion, it does not appear at the present stage of the proceedings that the bombings which form the subject of the Yugoslav Application "indeed entail the element of intent, towards a group as such, required by the provision" mentioned above. The Court considers therefore that it is not in a position to find, at this stage of the proceedings, that the acts imputed by Yugoslavia to Germany are capable of coming within the provisions of the Genocide Convention; and Article IX cannot accordingly constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

As to Article 38, paragraph 5, of the Rules of Court, the Court stresses that, in the absence of consent by Germany, it cannot exercise jurisdiction in the case, even prima facie.

The Court concludes that it "lacks prima facie jurisdiction to entertain Yugoslavia's Application" and that it "cannot therefore indicate any provisional measure whatsoever". However, the findings reached by the Court "in no way prejudge the question of the jurisdiction of the Court to deal with the merits of the case" and they "leave unaffected the right of the Governments of Yugoslavia and Germany to submit arguments in respect of those questions".

The Court finally observes that "there is a fundamental distinction between the question of the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law". "The former requires consent; the latter question can only be reached when the Court deals with the merits after having established its jurisdiction and having heard full legal arguments by both parties." It emphasizes that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties". In this context, "the parties should take care not to aggravate or extend the dispute". The Court reaffirms that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter".

Operative paragraph (para. 38):

"For these reasons,

THE COURT,

(1) By twelve votes to three:

Rejects the request for the indication of provisional measures submitted by the Federal Republic of Yugoslavia on 29 April 1999;

IN FAVOUR: *Vice-President* Weeramantry, *Acting President; President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans;

AGAINST: *Judges* Shi, Vereshchetin; *Judge* ad hoc Kreća;

(2) By fourteen votes to one:

Reserves the subsequent procedure for further decision.

IN FAVOUR: *Vice-President* Weeramantry, *Acting President; President* Schwebel; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans; *Judge* ad hoc Kreća;

AGAINST: *Judge* Oda."

*

Vice-President Weeramantry, Acting President, Judges Shi, Koroma and Vereshchetin appended declarations to the Court's Order (*I.C.J. Reports 1999*, pp. 435, 436-437, 438-439 and 440-441); Judges Oda and Parra-Aranguren appended separate opinions (*ibid.*, pp. 442-458 and 459-460); Judge *ad hoc* Kreća appended a dissenting opinion (*ibid.*, pp. 461-479).

Legality of Use of Force (Yugoslavia v. Italy)

Background information

On 29 April 1999 Yugoslavia filed an Application instituting proceedings against Italy "for violation of the obligation not to use force", accusing that State of bombing Yugoslav territory "together with other Member States of NATO". On the same day, it submitted a request for the indication of provisional measures, asking the Court to order Italy to "cease immediately its acts of use of force" and to "refrain from any act of threat or use of force" against the FRY.

As a basis for the jurisdiction of the Court, Yugoslavia invoked Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948, as well as Article 38, paragraph 5, of the Rules of Court. Article IX of the Genocide Convention provides that disputes between the contracting parties relating to the interpretation, application or fulfilment of the Convention shall be submitted to the International

Court of Justice. As to Article 38, paragraph 5, of the Rules of Court, it provides that when a State files an application against another State which has not accepted the jurisdiction of the Court, the application is transmitted to that other State, but no action is taken in the proceedings unless and until that State has accepted the Court's jurisdiction for the purposes of the case.

Reasoning of the Court

In its Order, the Court first emphasizes that it is "deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background" of the dispute and "with the continuing loss of life and human suffering in all parts of Yugoslavia". It declares itself "profoundly concerned with the use of force in Yugoslavia", which "under the present circumstances . . . raises very serious issues of international law". While being "mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of peace and security under the Charter and [its] Statute", the Court "deems it necessary to emphasize that all parties before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including humanitarian law".

The Court then points out that it "does not automatically have jurisdiction over legal disputes between States" and that "one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction". It cannot indicate provisional measures without its jurisdiction in the case being established prima facie.

Concerning Article IX of the Genocide Convention, the Court states that it is not disputed that both Yugoslavia and Italy are parties to that Convention, without reservation, and that Article IX accordingly appears to constitute a basis on which the jurisdiction of the Court might be founded. The Court however finds that it must ascertain whether the breaches of the Convention alleged by Yugoslavia are capable of falling within the provisions of that instrument and whether, as a consequence, the dispute is one over which the Court might have jurisdiction *ratione materiae*. In its Application, Yugoslavia contends that the subject of the dispute concerns *inter alia* "acts of the Italian Republic by which it has violated its international obligation . . . not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". It contends that the sustained and intensive bombing of the whole of its territory, including the most heavily populated areas, constitutes "a serious violation of Article II of the Genocide Convention", that it is the Yugoslav nation as a whole and as such that is targeted and that the use of certain weapons whose long-term hazards to health and the environment are already known, and the destruction of the largest part of the country's power supply system, with catastrophic consequences of which the Respondent must be aware, "impl[y] the intent to destroy, in whole or in part", the Yugoslav national group as such. For its part, Italy contends that "[m]anifestly, both the subjective element and the objective element of the crime of genocide are lacking", that the "action taken by the NATO Member States is directed at the territory of the [FRY] and not at its people" and that there is "absence of . . . deliberate and intentional desire to achieve [the] inherent objective [of the crime]". It appears to the Court that, according to the Convention, the essential characteristic of genocide is the intended destruction of a national, ethnical, racial or religious group; the Court further states that "the threat or use of force against a State cannot in itself constitute an act of genocide within the meaning of Article II of the Genocide Convention". It adds that in its opinion, it does not appear at the present stage of the proceedings that the bombings which form the subject of the Yugoslav Application "indeed entail the element of intent, towards a group as such, required by the provision" mentioned above. The Court considers therefore that it is not in a position to find, at this stage of the proceedings, that the acts imputed by Yugoslavia to Italy are capable of coming within the provisions of the Genocide Convention; and Article IX cannot accordingly constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

As to Article 38, paragraph 5, of the Rules of Court, the Court stresses that, in the absence of consent by Italy, it cannot exercise jurisdiction in the case, even prima facie.

The Court concludes that it "lacks prima facie jurisdiction to entertain Yugoslavia's Application" and that it "cannot therefore indicate any provisional measure whatsoever". However, the findings reached by the Court "in no way prejudge the question of the jurisdiction of the Court to deal with the merits of the case" and they "leave unaffected the right of the Governments of Yugoslavia and Italy to submit arguments in respect of those questions".

The Court finally observes that "there is a fundamental distinction between the question of the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law". "The former requires consent; the latter question can only be reached when the Court deals with the merits after having established its jurisdiction and having heard full legal arguments by both parties." It emphasizes that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties". In this context, "the parties should take care not to aggravate or extend the dispute". The Court reaffirms that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter".

Operative paragraph (para. 39):

> "For these reasons,
>
> THE COURT,
>
> (1) By thirteen votes to three,
>
> *Rejects* the request for the indication of provisional measures submitted by the Federal Republic of Yugoslavia on 29 April 1999;
>
> IN FAVOUR: *Vice-President* Weeramantry, *Acting President; President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans; *Judge* ad hoc Gaja;
>
> AGAINST: *Judges* Shi, Vereshchetin; *Judge* ad hoc Kreća.
>
> (2) By fifteen votes to one,
>
> *Reserves* the subsequent procedure for further decision.
>
> IN FAVOUR: *Vice-President* Weeramantry, *Acting President; President* Schwebel; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans; *Judges* ad hoc Gaja, Kreća;
>
> AGAINST: *Judge* Oda."

*

Vice-President Weeramantry, Acting President, Judges Shi, Koroma and Vereshchetin, and Judge *ad hoc* Gaja appended declarations to the Court's Order (*I.C.J. Reports 1999*, pp. 495, 496-497, 498-499, 500-501 and 502); Judges Oda and Parra-Aranguren appended separate opinions (*ibid.*, pp. 503-519 and 520-521); Judge *ad hoc* Kreća appended a dissenting opinion (*ibid.*, pp. 522-540).

Legality of Use of Force (Yugoslavia v. Netherlands)

Background information

On 29 April 1999 Yugoslavia filed an Application instituting proceedings against the Netherlands "for violation of the obligation not to use force", accusing that State of bombing Yugoslav territory "together with other Member States of NATO". On the same day, it submitted a request for the indication of provisional measures, asking the Court to order the Netherlands to "cease immediately its acts of use of force" and to "refrain from any act of threat or use of force" against the FRY.

As a basis for the jurisdiction of the Court, Yugoslavia invoked the declarations by which both States had accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court), and Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on

9 December 1948. Article IX of the Genocide Convention provides that disputes between the contracting parties relating to the interpretation, application or fulfilment of the Convention shall be submitted to the International Court of Justice. In a supplement to its Application submitted to the Court on 12 May 1999, Yugoslavia invoked, as an additional ground of jurisdiction, Article 4 of the Treaty of Judicial Settlement, Arbitration and Conciliation between the Netherlands and the Kingdom of Yugoslavia, signed at The Hague on 11 March 1931.

Reasoning of the Court

In its Order, the Court first emphasizes that it is "deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background" of the dispute and "with the continuing loss of life and human suffering in all parts of Yugoslavia". It declares itself "profoundly concerned with the use of force in Yugoslavia", which "under the present circumstances . . . raises very serious issues of international law". While being "mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of peace and security under the Charter and [its] Statute", the Court "deems it necessary to emphasize that all parties before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including humanitarian law".

The Court then points out that it "does not automatically have jurisdiction over legal disputes between States" and that "one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction". It cannot indicate provisional measures without its jurisdiction in the case being established prima facie.

Concerning the first basis of jurisdiction invoked, the Court observes that under the terms of its declaration, Yugoslavia limits its acceptance of the Court's compulsory jurisdiction to "disputes arising or which may arise after the signature of the present Declaration, with regard to the situations or facts subsequent to this signature". It states that in order to assess whether it has jurisdiction in the case, it is sufficient to decide whether the dispute brought to the Court "arose" before or after 25 April 1999, the date on which the declaration was signed. It finds that the bombings began on 24 March 1999 and have been conducted continuously over a period extending beyond 25 April 1999. The Court has thus no doubt that a "legal dispute . . . 'arose' between Yugoslavia and [the Netherlands], as it did also with the other NATO member States, well before 25 April 1999". The Court concludes that the declarations made by the Parties do not constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

As to the arguments of the Netherlands that Yugoslavia is not a member State of the United Nations in view of United Nations Security

Council resolutions 757 and 777 (1992) and United Nations General Assembly resolutions 47/1 (1992) and 48/88 (1993), nor a party to the Statute of the Court, so that Yugoslavia could not validly make the declaration accepting the compulsory jurisdiction of the Court, the Court maintains that it need not consider this question, taking into account its finding that the declarations do not constitute a basis of jurisdiction.

Concerning Article IX of the Genocide Convention, the Court states that it is not disputed that both Yugoslavia and the Netherlands are parties to that Convention, without reservation, and that Article IX accordingly appears to constitute a basis on which the jurisdiction of the Court might be founded. The Court however finds that it must ascertain whether the breaches of the Convention alleged by Yugoslavia are capable of falling within the provisions of that instrument and whether, as a consequence, the dispute is one over which the Court might have jurisdiction *ratione materiae*. In its Application, Yugoslavia contends that the subject of the dispute concerns, *inter alia*, "acts of the Kingdom of the Netherlands by which it has violated its international obligation ... not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". It contends that the sustained and intensive bombing of the whole of its territory, including the most heavily populated areas, constitutes "a serious violation of Article II of the Genocide Convention", that it is the Yugoslav nation as a whole and as such that is targeted and that the use of certain weapons whose long-term hazards to health and the environment are already known, and the destruction of the largest part of the country's power supply system, with catastrophic consequences of which the Respondent must be aware, "impl[y] the intent to destroy, in whole or in part", the Yugoslav national group as such. According to the Netherlands, Yugoslavia's Application "fails to refer to the conditions that form the core of the crime of genocide under the Convention, namely 'the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such' " and the Court accordingly lacks jurisdiction *ratione materiae* on the basis of Article IX. It appears to the Court that, according to the Convention, the essential characteristic of genocide is the intended destruction of a national, ethnical, racial or religious group; the Court further states that "the threat or use of force against a State cannot in itself constitute an act of genocide within the meaning of Article II of the Genocide Convention". It adds that in its opinion, it does not appear at the present stage of the proceedings that the bombings which form the subject of the Yugoslav Application "indeed entail the element of intent, towards a group as such, required by the provision" mentioned above. The Court considers therefore that it is not in a position to find, at this stage of the proceedings, that the acts imputed by Yugoslavia to the Netherlands are capable of coming within the provisions of the Genocide Convention; and Article IX cannot accordingly constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

As to Article 4 of the Treaty of Judicial Settlement, Arbitration and

Conciliation between the Netherlands and the Kingdom of Yugoslavia, the Court observes that "the invocation by a party of a new basis of jurisdiction in the second round of oral argument on a request for the indication of provisional measures has never before occurred in the Court's practice", that "such action at this late stage, when not accepted by the other party, seriously jeopardizes the principle of procedural fairness and the sound administration of justice" and that in consequence the Court cannot take into consideration this new title of jurisdiction.

The Court having found that it has "no prima facie jurisdiction to entertain Yugoslavia's Application, either on the basis of Article 36, paragraph 2, of the Statute or of Article IX of the Genocide Convention" and having "taken the view that it cannot, at this stage of the proceedings, take account of the additional basis of jurisdiction invoked by Yugoslavia", it follows that the Court "cannot indicate any provisional measure whatsoever". However, the findings reached by the Court "in no way prejudge the question of the jurisdiction of the Court to deal with the merits of the case" and they "leave unaffected the right of the Governments of Yugoslavia and the Netherlands to submit arguments in respect of those questions".

The Court finally observes that "there is a fundamental distinction between the question of the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law". "The former requires consent; the latter question can only be reached when the Court deals with the merits after having established its jurisdiction and having heard full legal arguments by both parties." It emphasizes that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties". In this context, "the parties should take care not to aggravate or extend the dispute". The Court reaffirms that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter".

Operative paragraph (para. 51):

"For these reasons,

THE COURT,

(1) By eleven votes to four,

Rejects the request for the indication of provisional measures submitted by the Federal Republic of Yugoslavia on 29 April 1999;

IN FAVOUR: *President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans;

AGAINST: *Vice-President* Weeramantry, *Acting President; Judges* Shi, Vereshchetin; *Judge* ad hoc Kreca;

(2) By fourteen votes to one,

Reserves the subsequent procedure for further decision.

IN FAVOUR: *Vice-President* Weeramantry, *Acting President; President* Schwebel; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans; *Judge* ad hoc Kreca;

AGAINST: *Judge* Oda."

*

Judge Koroma appended a declaration to the Court's Order (*I.C.J. Reports 1999*, pp. 560-561); Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions (*ibid.*, pp. 562-578, 579-588, 589-590 and 591-598); Vice-President Weeramantry, Acting President, Judges Shi and Vereshchetin, and Judge *ad hoc* Kreca appended dissenting opinions (*ibid.*, pp. 599, 600-603, 604-610 and 611-654).

Legality of Use of Force (Yugoslavia v. Portugal)

Background information

On 29 April 1999 Yugoslavia filed an Application instituting proceedings against Portugal "for violation of the obligation not to use force", accusing that State of bombing Yugoslav territory "together with other Member States of NATO". On the same day, it submitted a request for the indication of provisional measures, asking the Court to order Portugal to "cease immediately its acts of use of force" and to "refrain from any act of threat or use of force" against the FRY.

As a basis for the jurisdiction of the Court, Yugoslavia invoked the declarations by which both States had accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court), and Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948. Article IX of the Genocide Convention provides that disputes between the contracting parties relating to the interpretation, application or fulfilment of the Convention shall be submitted to the International Court of Justice.

Reasoning of the Court

In its Order, the Court first emphasizes that it is "deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background" of the dispute and "with the continuing loss of life and human suffering in all parts of Yugoslavia".

It declares itself "profoundly concerned with the use of force in Yugoslavia", which "under the present circumstances . . . raises very serious issues of international law". While being "mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of peace and security under the Charter and [its] Statute", the Court "deems it necessary to emphasize that all parties before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including humanitarian law".

The Court then points out that it "does not automatically have jurisdiction over legal disputes between States" and that "one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction". It cannot indicate provisional measures without its jurisdiction in the case being established prima facie.

Concerning the first basis of jurisdiction invoked, the Court observes that under the terms of its declaration, Yugoslavia limits its acceptance of the Court's compulsory jurisdiction to "disputes arising or which may arise after the signature of the present Declaration, with regard to the situations or facts subsequent to this signature". It states that in order to assess whether it has jurisdiction in the case, it is sufficient to decide whether the dispute brought to the Court "arose" before or after 25 April 1999, the date on which the declaration was signed. It finds that the bombings began on 24 March 1999 and have been conducted continuously over a period extending beyond 25 April 1999. The Court has thus no doubt that a "legal dispute . . . 'arose' between Yugoslavia and [Portugal], as it did also with the other NATO member States, well before 25 April 1999". The Court concludes that the declarations made by the Parties do not constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

As to Portugal's argument that Yugoslavia is not a Member State of the United Nations in view of United Nations Security Council resolutions 777 (1992) and 821 (1993), as well as of General Assembly resolutions 47/1 (1992) and 48/88 (1993), nor a party to the Statute of the Court, the Court maintains that it need not consider this question, taking into account its finding that the declarations do not constitute a basis of jurisdiction.

Concerning Article IX of the Genocide Convention, the Court finds that it must ascertain whether the breaches of the Convention alleged by Yugoslavia are capable of falling within the provisions of that instrument and whether, as a consequence, the dispute is one over which the Court might have jurisdiction *ratione materiae*. In its Application, Yugoslavia contends that the subject of the dispute concerns *inter alia* "acts of Portugal by which it has violated its international obligation . . . not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". It contends that the sustained and intensive bombing of the whole of its territory, including the most heavily populated areas, constitutes "a serious violation of Article II of the Genocide Convention", that it is the Yugoslav nation as a whole and as such that is targeted and that the use of certain weapons whose long-term hazards to health and the environment are already known, and the destruction of the largest part of the country's power supply system, with catastrophic consequences of which the Respondent must be aware, "impl[y] the intent to destroy, in whole or in part", the Yugoslav national group as such. For its part, Portugal contends that "the specific intent which is necessary for the crime [of genocide]'s existence is absent in the case", that the actions in which Portugal allegedly took part "are clearly inadequate to the commitment of a crime that would require a selective effort in the choice of the victims, incompatible with the contingent effect of the employed means" and that in consequence, "both the objective and subjective elements of the crime are missing". It appears to the Court that, according to the Convention, the essential characteristic of genocide is the intended destruction of a national, ethnical, racial or religious group; the Court further states that "the threat or use of force against a State cannot in itself constitute an act of genocide within the meaning of Article II of the Genocide Convention". It adds that in its opinion, it does not appear at the present stage of the proceedings that the bombings which form the subject of the Yugoslav Application "indeed entail the element of intent, towards a group as such, required by the provision" mentioned above. The Court considers therefore that it is not in a position to find, at this stage of the proceedings, that the acts imputed by Yugoslavia to Portugal are capable of coming within the provisions of the Genocide Convention; and Article IX cannot accordingly constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

Concerning Portugal's argument that at the date on which Yugoslavia filed its Application . . . "Portugal was not party to the Genocide Convention although its instrument of accession had already been deposited in the United Nations", the Court considers that with regard to the finding it reached on Article IX of the Genocide Convention as a basis of jurisdiction, there is no need for it to consider this question for the purpose of deciding whether or not it can indicate provisional measures in the case.

The Court concludes that it "lacks prima facie jurisdiction to entertain Yugoslavia's Application" and that it "cannot therefore indicate any provisional measure whatsoever". However, the findings reached by the Court "in no way prejudge the question of the jurisdiction of the Court to deal with the merits of the case" and they "leave unaffected the right of the Governments of Yugoslavia and Portugal to submit arguments in respect of those questions".

The Court finally observes that "there is a fundamental distinction between the question of the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law". "The former requires consent; the latter question can only be reached when the Court deals with the merits after having established its jurisdiction and having heard full legal arguments by both parties." It emphasizes that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties". In this context, "the parties should take care not to aggravate or extend the dispute". The Court reaffirms that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter".

Operative paragraph (para. 50):

> "For these reasons,
>
> THE COURT,
>
> (1) By eleven votes to four,
>
> *Rejects* the request for the indication of provisional measures submitted by the Federal Republic of Yugoslavia on 29 April 1999;
>
> IN FAVOUR: *President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans;
>
> AGAINST: *Vice-President* Weeramantry, *Acting President; Judges* Shi, Vereshchetin; *Judge* ad hoc Kreća;
>
> (2) By fourteen votes to one,
>
> *Reserves* the subsequent procedure for further decision.
>
> IN FAVOUR: *Vice-President* Weeramantry, *Acting President; President* Schwebel; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans; *Judge* ad hoc Kreća;
>
> AGAINST: *Judge* Oda."

*

Judge Koroma appended a declaration to the Court's Order (*I.C.J. Reports 1999*, pp. 674-675); Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions (*ibid.*, pp. 676-692, 693-702, 703-704 and 705-712); Vice-President Weeramantry, Acting President, Judges Shi and Vereshchetin, and Judge *ad hoc* Kreća appended dissenting opinions (*ibid.*, pp. 713, 714-717, 718-724 and 725-759).

Legality of Use of Force (Yugoslavia v. Spain)

Background information

On 29 April 1999 Yugoslavia filed an Application instituting proceedings against Spain "for violation of the obligation not to use force", accusing that State of bombing Yugoslav territory "together with other Member States of NATO". On the same day, it submitted a request for the indication of provisional measures, asking the Court to order Spain to "cease immediately its acts of use of force" and to "refrain from any act of threat or use of force" against the FRY.

As a basis for the jurisdiction of the Court, Yugoslavia invoked the declarations by which both States had accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court), and Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948. Article IX of the Genocide Convention provides that disputes between the contracting parties relating to the interpretation, application or fulfilment of the Convention shall be submitted to the International Court of Justice.

Reasoning of the Court

In its Order, the Court first emphasizes that it is "deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background" of the dispute and "with the continuing loss of life and human suffering in all parts of Yugoslavia". It declares itself "profoundly concerned with the use of force in Yugoslavia", which "under the present circumstances . . . raises very serious issues of international law". While being "mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of peace and security under the Charter and [its] Statute", the Court "deems it necessary to emphasize that all parties before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including humanitarian law".

The Court then points out that it "does not automatically have jurisdiction over legal disputes between States" and that "one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction". It cannot indicate provisional measures without its jurisdiction in the case being established prima facie.

Concerning the first basis of jurisdiction invoked, the Court observes that Spain contended that its declaration contains a reservation which is relevant to the case. Under the terms of that reservation, Spain does not recognize the jurisdiction of the Court in respect of "disputes to which the other party or parties have accepted the compulsory jurisdiction of the Court less than 12 months prior to the filing of the application bringing the dispute before the Court". The Court notes that Yugoslavia deposited its declaration of acceptance of the compulsory jurisdiction of the Court with the United Nations Secretary-General on 26 April 1999 and that it brought the dispute to the Court on 29 April 1999. It states that there can be no doubt that the conditions for the exclusion of the Court's jurisdiction provided for in Spain's declaration are satisfied. The Court concludes that the declarations made by the Parties manifestly cannot constitute a basis of jurisdiction in the case, even prima facie.

As for Spain's argument that Yugoslavia is not a member State of the United Nations in view of United Nations Security Council resolution 777 (1992) and United Nations General Assembly resolution 47/1 (1992), nor a party to the Statute of the Court, and that it cannot appear before the Court, the Court maintains that it need not consider this question, taking into account its finding that the declarations do not constitute a basis of jurisdiction.

Concerning Article IX of the Genocide Convention, the Court states that it is not disputed that both Yugoslavia and Spain are parties to that Convention, but that Spain's instrument of accession, deposited with the United Nations Secretary-General on 13 September 1968, contains a reservation "in respect of the whole of Article IX". Since the Genocide Convention does not prohibit reservations and since Yugoslavia did not object to the Spanish reservation, the Court considers that Article IX manifestly does not constitute a basis of jurisdiction in the case, even prima facie.

The Court concludes that it "manifestly lacks jurisdiction to entertain Yugoslavia's Application" and that "it cannot therefore indicate any provisional measure whatsoever". It adds that "within a system of consensual jurisdiction, to maintain on the General List a case upon which it appears certain that the Court will not be able to adjudicate on the merits would most assuredly not contribute to the sound administration of justice".

The Court finally observes that "there is a fundamental distinction between the question of the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law". "The former requires consent; the latter question can only be reached when the Court deals with the merits after having established its jurisdiction and having heard full legal arguments by both parties." It emphasizes that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties". In this context, "the parties should take care not to aggravate or extend the dispute". The Court reaffirms that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter".

Operative paragraph (para. 40):

"For these reasons,

THE COURT,

(1) By fourteen votes to two,

Rejects the request for the indication of provisional measures submitted by the Federal Republic of Yugoslavia on 29 April 1999;

IN FAVOUR: *Vice-President* Weeramantry, *Acting President; President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans; *Judges* ad hoc Torres Bernárdez, Kreća;

AGAINST: *Judges* Shi, Vereshchetin;

(2) By thirteen votes to three,

Orders that the case be removed from the List.

IN FAVOUR: *Vice-President* Weeramantry, *Acting President; President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Higgins, Kooijmans; *Judge* ad hoc Torres Bernárdez;

AGAINST: *Judges* Vereshchetin, Parra-Aranguren; *Judge* ad hoc Kreća."

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Judges Shi, Koroma and Vereshchetin appended declarations to the Court's Order (*I.C.J. Reports 1999*, pp. 775-776, 777-778 and 779-780); Judges Oda, Higgins, Parra-Aranguren and Kooijmans, and Judge *ad hoc* Kreća appended separate opinions (*ibid.*, pp. 781-797, 798-807, 808, 809-816 and 817-824).

Legality of Use of Force (Yugoslavia v. United Kingdom)

Background information

On 29 April 1999 Yugoslavia filed an Application instituting proceedings against the United Kingdom "for violation of the obligation not to use force", accusing that State of bombing Yugoslav territory "together with other Member States of NATO". On the same day, it submitted a request for the indication of provisional measures, asking the Court to order the United Kingdom to "cease immediately its acts of use of force" and to "refrain from any act of threat or use of force" against the FRY.

As a basis for the jurisdiction of the Court, Yugoslavia invoked the declarations by which both States had accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court), and Article IX of the Convention on the Prevention and Punishment of the Crime of

Genocide, adopted by the United Nations General Assembly on 9 December 1948. Article IX of the Genocide Convention provides that disputes between the contracting parties relating to the interpretation, application or fulfilment of the Convention shall be submitted to the International Court of Justice.

Reasoning of the Court

In its Order, the Court first emphasizes that it is "deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background" of the dispute and "with the continuing loss of life and human suffering in all parts of Yugoslavia". It declares itself "profoundly concerned with the use of force in Yugoslavia", which "under the present circumstances . . . raises very serious issues of international law". While being "mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of peace and security under the Charter and [its] Statute", the Court "deems it necessary to emphasize that all parties before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including humanitarian law".

The Court then points out that it "does not automatically have jurisdiction over legal disputes between States" and that "one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction". It cannot indicate provisional measures without its jurisdiction in the case being established prima facie.

Concerning the first basis of jurisdiction invoked, the Court observes that the United Kingdom contended that its declaration contains reservations. Under the terms of one of those reservations, the United Kingdom does not recognize the jurisdiction of the Court in respect of "disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the . . . Court . . . in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court". The Court notes that Yugoslavia deposited its declaration of acceptance of the compulsory jurisdiction of the Court with the United Nations Secretary-General on 26 April 1999 and that it brought the dispute to the Court on 29 April 1999. It states that there can be no doubt that the conditions for the exclusion of the Court's jurisdiction provided for in the declaration of the United Kingdom are satisfied. The Court concludes that the declarations made by the Parties manifestly cannot constitute a basis of jurisdiction in the case, even prima facie.

As to the United Kingdom's argument that Yugoslavia is not a member State of the United Nations in view of United Nations Security Council resolution 777 (1992) and United Nations General Assembly resolution 47/1 (1992), nor a party to the Statute of the Court, so that Yugoslavia could not establish a jurisdictional link with parties to the Statute by making a declaration accepting the compulsory jurisdiction of the Court, the Court maintains that it need not consider this question, taking into account its finding that the declarations do not constitute a basis of jurisdiction.

Concerning Article IX of the Genocide Convention, the Court states that it is not disputed that both Yugoslavia and the United Kingdom are parties to that Convention, without reservation, and that Article IX accordingly appears to constitute a basis on which the jurisdiction of the Court might be founded. The Court however finds that it must ascertain whether the breaches of the Convention alleged by Yugoslavia are capable of falling within the provisions of that instrument and whether, as a consequence, the dispute is one over which the Court might have jurisdiction *ratione materiae*. In its Application, Yugoslavia contends that the subject of the dispute concerns, *inter alia*, "acts of the United Kingdom . . . by which it has violated its international obligation . . . not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group". It contends that the sustained and intensive bombing of the whole of its territory, including the most heavily populated areas, constitutes "a serious violation of Article II of the Genocide Convention", that it is the Yugoslav nation as a whole and as such that is targeted and that the use of certain weapons whose long-term hazards to health and the environment are already known, and the destruction of the largest part of the country's power supply system, with catastrophic consequences of which the Respondent must be aware, "impl[y] the intent to destroy, in whole or in part", the Yugoslav national group as such. For its part, the United Kingdom emphasizes that Yugoslavia has failed to adduce any specific evidence of violations of the Convention and has not established the intent required thereunder. It appears to the Court that, according to the Convention, the essential characteristic of genocide is the intended destruction of a national, ethnical, racial or religious group; the Court further states that "the threat or use of force against a State cannot in itself constitute an act of genocide within the meaning of Article II of the Genocide Convention". It adds that in its opinion, it does not appear at the present stage of the proceedings that the bombings which form the subject of the Yugoslav Application "indeed entail the element of intent, towards a group as such, required by the provision" mentioned above. The Court considers therefore that it is not in a position to find, at this stage of the proceedings, that the acts imputed by Yugoslavia to the United Kingdom are capable of coming within the provisions of the Genocide Convention; and Article IX cannot accordingly constitute a basis on which the jurisdiction of the Court could prima facie be founded in the case.

The Court concludes that it "lacks prima facie jurisdiction to entertain Yugoslavia's Application" and that it "cannot therefore indicate any provisional measure whatsoever". However, the findings reached by the Court "in no way prejudge the question of the jurisdiction of the Court to deal with the merits of the case" and they "leave unaffected the right of the Governments of Yugoslavia and the United Kingdom to submit arguments in respect of those questions".

The Court finally observes that "there is a fundamental distinction between the question of the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law". "The former requires consent; the latter question can only be reached when the Court deals with the merits after having established its jurisdiction and having heard full legal arguments by both parties." It emphasizes that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties". In this context, "the parties should take care not to aggravate or extend the dispute". The Court reaffirms that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter".

Operative paragraph (para. 43):

> "For these reasons,
>
> THE COURT,
>
> (1) By twelve votes to three,
>
> *Rejects* the request for the indication of provisional measures submitted by the Federal Republic of Yugoslavia on 29 April 1999;
>
> IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans;
>
> AGAINST: *Judges* Shi, Vereshchetin; *Judge* ad hoc Kreća;
>
> (2) By fourteen votes to one,
>
> *Reserves* the subsequent procedure for further decision.
>
> IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *President* Schwebel; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans; *Judge* ad hoc Kreća;
>
> AGAINST: *Judge* Oda."

*

Vice-President Weeramantry, Acting President, Judges Shi, Koroma and Vereshchetin appended declarations to the Court's Order (*I.C.J. Reports 1999*, pp. 842, 843-844, 845-846 and 847-848); Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions (*ibid.*, pp. 849-865, 866-875, 876-877 and 878-885); Judge *ad hoc* Kreća appended a dissenting opinion (*ibid.*, pp. 886-914).

Legality of Use of Force
(Yugoslavia v. United States of America)

Background information

On 29 April 1999 Yugoslavia filed an Application instituting proceedings against the United States of America "for violation of the obligation not to use force", accusing that State of bombing Yugoslav territory "together with other Member States of NATO". On the same day, it submitted a request for the indication of provisional measures, asking the Court to order the United States of America to "cease immediately its acts of use of force" and to "refrain from any act of threat or use of force" against the FRY.

As a basis for the jurisdiction of the Court, Yugoslavia invoked Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the United Nations General Assembly on 9 December 1948, as well as Article 38, paragraph 5, of the Rules of Court. Article IX of the Genocide Convention provides that disputes between the contracting parties relating to the interpretation, application or fulfilment of the Convention shall be submitted to the International Court of Justice. As to Article 38, paragraph 5, of the Rules of Court, it provides that when a State files an application against another State which has not accepted the jurisdiction of the Court, the application is transmitted to that other State, but no action is taken in the proceedings unless and until that State has accepted the Court's jurisdiction for the purposes of the case.

Reasoning of the Court

In its Order, the Court first emphasizes that it is "deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background" of the dispute and "with the continuing loss of life and human suffering in all parts of Yugoslavia". It declares itself "profoundly concerned with the use of force in Yugoslavia", which "under the present circumstances . . . raises very serious issues of international law". While being "mindful of the purposes and principles of the United Nations Charter and of its own responsibilities in the maintenance of peace and security under the Charter and [its] Statute", the Court "deems it necessary to emphasize that all parties before it must act in conformity with their obligations under the United

Nations Charter and other rules of international law, including humanitarian law".

The Court then points out that it "does not automatically have jurisdiction over legal disputes between States" and that "one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction". It cannot indicate provisional measures without its jurisdiction in the case being established prima facie.

Concerning Article IX of the Genocide Convention, the Court states that it is not disputed that both Yugoslavia and the United States of America are parties to that Convention, but that when the United States ratified the Convention on 25 November 1988, it made a reservation. That reservation provides that with reference to Article IX, before any dispute to which the United States is a party may be submitted to the jurisdiction of the Court, "the specific consent of the United States is required in each case". However, in this case, the United States has indicated that it had not given specific consent and that it would not do so. Since the Genocide Convention does not prohibit reservations and since Yugoslavia did not object to the reservation made by the United States, the Court considers that Article IX manifestly does not constitute a basis of jurisdiction in the case, even prima facie.

As to Article 38, paragraph 5, of the Rules of Court, the Court stresses that, in the absence of consent by the United States, it cannot exercise jurisdiction in the case, even prima facie.

The Court concludes that it "manifestly lacks jurisdiction to entertain Yugoslavia's Application" and that "it cannot therefore indicate any provisional measure whatsoever". It adds that "within a system of consensual jurisdiction, to maintain on the General List a case upon which it appears certain that the Court will not be able to adjudicate on the merits would most assuredly not contribute to the sound administration of justice".

The Court finally observes that "there is a fundamental distinction between the question of the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law". "The former requires consent; the latter question can only be reached when the Court deals with the merits after having established its jurisdiction and having heard full legal arguments by both parties." It emphasizes that "whether or not States accept the jurisdiction of the Court, they remain in any event responsible for acts attributable to them that violate international law, including humanitarian law" and that "any disputes relating to the legality of such acts are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties". In this context, "the parties should take care not to aggravate or extend the dispute". The Court reaffirms that "when such a dispute gives rise to a threat to the peace, breach of the peace or act of aggression, the Security Council has special responsibilities under Chapter VII of the Charter".

Operative paragraph (para. 34):

"For these reasons,

THE COURT,

(1) By twelve votes to three,

Rejects the request for the indication of provisional measures submitted by the Federal Republic of Yugoslavia on 29 April 1999;

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Fleischhauer, Koroma, Higgins, Parra-Aranguren, Kooijmans;

AGAINST: *Judges* Shi, Vereshchetin; *Judge* ad hoc Kreća;

(2) By twelve votes to three,

Orders that the case be removed from the List.

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Higgins, Kooijmans;

AGAINST: *Judges* Vereshchetin, Parra-Aranguren; *Judge* ad hoc Kreća."

*

Judges Shi, Koroma and Vereshchetin appended declarations to the Court's Order (*I.C.J. Reports 1999*, pp. 927-928, 929-930 and 931-932); Judges Oda and Parra-Aranguren appended separate opinions (*ibid.*, pp. 933-949 and 950); Judge *ad hoc* Kreća appended a dissenting opinion (*ibid.*, pp. 951-973).

*

By Orders of 30 June 1999 (*I.C.J. Reports 1999*, pp. 988, 991, 994, 997, 1000, 1003, 1006 and 1009) the Court, having ascertained the views of the Parties, fixed the time-limits for the filing of the written pleadings in each of the eight cases maintained on the List: 5 January 2000 for the Memorial of Yugoslavia and 5 July 2000 for the Counter-Memorial of the respondent State concerned.

25-27. *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Uganda)* and *(Democratic Republic of the Congo v. Rwanda)*

On 23 June 1999 the Democratic Republic of the Congo (DRC) filed in the Registry of the Court Applications instituting proceedings against Burundi, Uganda and Rwanda respectively for "acts of armed aggression perpetrated in flagrant violation of the United Nations Charter and of the Charter of the OAU".

In its Applications, the DRC contended that "such armed aggression ha[d] involved, *inter alia*, violation of the sovereignty and territorial integrity of the [DRC], violations of international humanitarian law and massive human rights violations". By instituting proceedings, the DRC was seeking "to secure the cessation of the acts of aggression directed against it, which constitute a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it was also seeking reparation for acts of intentional destruction and looting, and the restitution of national property and resources appropriated for the benefit of the respective respondent States.

In the cases (*Democratic Republic of the Congo* v. *Burundi*) and (*Democratic Republic of the Congo* v. *Rwanda*), the DRC invoked as bases for the jurisdiction of the Court Article 36, paragraph 1, of the Statute of the Court, the New York Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 and the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 23 September 1971, and also Article 38, paragraph 5, of the Rules of Court. This Article contemplates the situation where a State files an application against another State which has not accepted the jurisdiction of the Court. Article 36, paragraph 1, of the Statute, provides that "the jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force".

In the case (*Democratic Republic of the Congo* v. *Uganda*), the DRC invoked as a basis for the jurisdiction of the Court the declarations by which both States have accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Art. 36, para. 2, of the Statute of the Court).

The Democratic Republic of the Congo requested the Court to:

> "*Adjudge and declare that*:
>
> (*a*) [The respondent State concerned] is guilty of an act of aggression within the meaning of Article 1 of resolution 3314 of the General Assembly of the United Nations of 14 December 1974 and of the jurisprudence of the International Court of Justice, contrary to Article 2, paragraph 4, of the United Nations Charter;
>
> (*b*) further, [the respondent State concerned] is committing repeated violations of the Geneva Conventions of 1949 and their Additional Protocols of 1977, in flagrant disregard of the elementary rules of international humanitarian law in conflict zones, and is also guilty of massive human rights violations in defiance of the most basic customary law;
>
> (*c*) more specifically, by taking forcible possession of the Inga hydroelectric dam, and deliberately and regularly causing massive electrical power cuts, in violation of the provisions of

Article 56 of the Additional Protocol of 1977, [the respondent State concerned] has rendered itself responsible for very heavy losses of life among the 5 million inhabitants of the city of Kinshasa and the surrounding area;

(d) by shooting down, on 9 October 1998 at Kindu, a Boeing 727 the property of Congo Airlines, thereby causing the death of 40 civilians, [the respondent State concerned] has also violated the Convention on International Civil Aviation signed at Chicago on 7 December 1944, the Hague Convention of 16 December 1970 for the Suppression of Unlawful Seizure of Aircraft and the Montreal Convention of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

Consequently, and pursuant to the aforementioned international legal obligations, to adjudge and declare that:

(1) all armed forces [of the responcent State concerned] participating in acts of aggression shall forthwith vacate the territory of the Democratic Republic of the Congo;

(2) [the respondent State concerned] shall secure the immediate and unconditional withdrawal from Congolese territory of its nationals, both natural and legal persons;

(3) the Democratic Republic of the Congo is entitled to compensation from [the respondent State concerned] in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [the respondent State concerned], in respect of which the Democratic Republic of the Congo reserves the right to determine at a later date the precise amount of the damage suffered, in addition to its claim for the restitution of all property removed."

28. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Yugoslavia)*

On 2 July 1999 the Republic of Croatia filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Yugoslavia "for violations of the Convention on the Prevention and Punishment of the Crime of Genocide", alleged to have been committed between 1991 and 1995.

In its Application, Croatia contended that "by directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of ... Croatia, in the Knin region, eastern and western Slavonia, and Dalmatia, [Yugoslavia] is liable [for] the 'ethnic cleansing' of Croatian citizens from these areas ... and is required to provide reparation for the resulting damage". Croatia went on to state that "in addition, by directing, encouraging, and urging Croatian citizens of Serb ethnicity in the Knin region to evacuate the area in 1995, as

Croatia reasserted its legitimate governmental authority . . . [Yugoslavia] engaged in conduct amounting to a second round of 'ethnic cleansing'".

The Application referred to Article 36, paragraph 1, of the Court's Statute and to Article IX of the Genocide Convention as the bases for the jurisdiction of the Court.

Croatia requested the Court to adjudge and declare:

> "(*a*) that the Federal Republic of Yugoslavia has breached its legal obligations toward the People and Republic of Croatia under Articles I, II (*a*), II (*b*), II (*c*), II (*d*), III (*a*), III (*b*), III (*c*), III (*d*), III (*e*), IV and V of the Genocide Convention;
>
> (*b*) that the Federal Republic of Yugoslavia has an obligation to pay to the Republic of Croatia, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. The Republic of Croatia reserves the right to introduce to the Court at a future date a precise evaluation of the damages caused by the Federal Republic of Yugoslavia."

B. REQUEST FOR ADVISORY OPINION

Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights

On 5 August 1998, the United Nations Economic and Social Council adopted decision 1998/297, the text of which reads as follows:

> "*The Economic and Social Council*,
>
> *Having considered* the note by the Secretary-General on the privileges and immunities of the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers[1],
>
> *Considering* that a difference has arisen between the United Nations and the Government of Malaysia, within the meaning of Section 30 of the Convention on the Privileges and Immunities of the United Nations, with respect to the immunity from legal process of Dato' Param Cumaraswamy, the Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers,
>
> *Recalling* General Assembly resolution 89 (I) of 11 December 1946,

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[1] E/1998/94.

1. *Requests* on a priority basis, pursuant to Article 96, paragraph 2, of the Charter of the United Nations and in accordance with General Assembly resolution 89 (I), an advisory opinion from the International Court of Justice on the legal question of the applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations in the case of Dato' Param Cumaraswamy as Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers, taking into account the circumstances set out in paragraphs 1 to 15 of the note by the Secretary-General[1], and on the legal obligations of Malaysia in this case;

2. *Calls upon* the Government of Malaysia to ensure that all judgements and proceedings in this matter in the Malaysian courts are stayed pending receipt of the advisory opinion of the International Court of Justice, which shall be accepted as decisive by the parties."

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[1] E/1998/94.

By a letter dated 7 August 1998, filed in the Registry of the Court on 10 August 1998, the Secretary-General officially communicated the Council's decision to the Court. Enclosed with the letter was a note by the Secretary-General dated 28 July 1998 entitled "Privileges and Immunities of the Special Rapporteur of the Commission on Human Rights on the Independence of Judges and Lawyers" (E/1998/94) and an addendum to that note.

By an Order of the same date, 10 August 1998 (*I.C.J. Reports 1998*, p. 423), the Senior Judge, Acting President, bearing in mind that the request was made "on a priority basis", fixed 7 October 1998 as the time-limit within which written statements on the question might be submitted to the Court by the United Nations and the States which are parties to the Convention on the Privileges and Immunities of the United Nations. The time-limit for written comments on written statements was fixed at 6 November 1998.

Within the time-limit fixed by the Order of 10 August 1998, written statements were filed by the Secretary-General of the United Nations and by Costa Rica, Germany, Italy, Malaysia, Sweden, the United Kingdom and the United States of America; the filing of a written statement by Greece on 12 October 1998 was authorized. A related letter was also received from Luxembourg on 29 October 1998. Written comments on the statements were submitted, within the prescribed time-limit, by the Secretary-General of the United Nations and by Costa Rica, Malaysia and the United States of America.

In the course of public sittings held on 7, 8 and 10 December 1998, the Court heard oral statements for the United Nations, Costa Rica, Italy and Malaysia.

At a public sitting held on 29 April 1999 the Court delivered its Advisory Opinion (*I.C.J. Reports 1999*, p. 62), a summary of which is given below, followed by the text of the operative paragraph.

Review of the proceedings and summary of facts (paras. 1-21)

After outlining the successive stages of the proceedings (paras. 1-9), the Court observes that in its decision 1998/297, the Council asked the Court to take into account, for purposes of the advisory opinion requested, the "circumstances set out in paragraphs 1 to 15 of the note by the Secretary-General" (E/1998/94). The text of those paragraphs is then reproduced. They set out the following.

In 1946, the General Assembly adopted, pursuant to Article 105 (3) of the Charter, the Convention on the Privileges and Immunities of the United Nations (the Convention), to which 137 member States have become parties and provisions of which have been incorporated by reference into many hundreds of agreements relating to the United Nations and its activities. The Convention is, *inter alia*, designed to protect various categories of persons, including "Experts on Mission for the United Nations", from all types of interference by national authorities. In particular, Section 22 (*b*) of Article VI of the Convention provides:

> "*Section 22*. Experts (other than officials coming within the scope of Article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including time spent on journeys in connection with their missions. In particular they shall be accorded:
>
> (b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations."

In its Advisory Opinion of 14 December 1989 (in the so-called "*Mazilu*" case), the Court held that a Special Rapporteur of the Subcommission on the Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights was an "expert on mission" within the meaning of Article VI of the Convention.

The Commission on Human Rights in 1994 appointed Dato' Param Cumaraswamy, a Malaysian jurist, as the Commission's Special Rapporteur on the Independence of Judges and Lawyers. His mandate consists of tasks including, *inter alia*, to enquire into substantial allegations concerning, and to identify and record attacks on, the independence of the judiciary, lawyers and court officials. Mr. Cumaraswamy has submitted four reports to the Commission on the execution of his mandate. After the third report containing a section on the litigation pending against him in the Malaysian civil courts, the Commission, in April 1997, renewed his mandate for an additional three years.

As a result of an article published on the basis of an interview which the Special Rapporteur gave to a magazine (*International Commercial Litigation*) in November 1995, two commercial companies in Malaysia asserted that the said article contained defamatory words that had "brought them into public scandal, odium and contempt". Each company filed a suit against him for damages amounting to M$30 million (approximately US$12 million each), "including exemplary damages for slander".

Acting on behalf of the Secretary-General, the Legal Counsel of the United Nations considered the circumstances of the interview and of the controverted passages of the article and determined that Dato' Param Cumaraswamy was interviewed in his official capacity as Special Rapporteur on the Independence of Judges and Lawyers, that the article clearly referred to his United Nations capacity and to the Special Rapporteur's global mandate to investigate allegations concerning the independence of the judiciary and that the quoted passages related to such allegations. On 15 January 1997, the Legal Counsel, in a note verbale, "requested the competent Malaysian authorities to promptly advise the Malaysian courts of the Special Rapporteur's immunity from legal process" with respect to that particular complaint. On 20 January 1997, the Special Rapporteur filed an application in the High Court of Kuala Lumpur (the trial court in which the suit had been filed) to set aside and/or strike out the plaintiffs' writ, on the ground that the words that were the subject of the suits had been spoken by him in the course of performing his mission for the United Nations as Special Rapporteur on the Independence of Judges and Lawyers. The Secretary-General issued a note on 7 March 1997 confirming that "the words which constitute the basis of plaintiffs' complaint in this case were spoken by the Special Rapporteur in the course of his mission" and that the Secretary-General "therefore maintains that Dato' Param Cumaraswamy is immune from legal process with respect thereto". The Special Rapporteur filed this note in support of his above-mentioned application.

In spite of representations that had been made by the Office of Legal Affairs, a certificate filed by the Malaysian Minister for Foreign Affairs with the trial court failed to refer in any way to the note that the Secretary-General had issued a few days earlier and that had in the meantime been filed with the court, nor did it indicate that in this respect, that is, in deciding whether particular words or acts of an expert fell within the scope of his mission, the determination could exclusively be made by the Secretary-General, and that such determination had conclusive effect and therefore had to be accepted as such by the court. In spite of repeated requests by the Legal Counsel, the Minister for Foreign

Affairs refused to amend his certificate or to supplement it in the manner urged by the United Nations.

On 28 June 1997, the competent judge of the Malaysian High Court for Kuala Lumpur concluded that she was "unable to hold that the Defendant is absolutely protected by the immunity he claims", in part because she considered that the Secretary-General's note was merely "an opinion" with scant probative value and no binding force upon the court and that the Minister for Foreign Affairs' certificate "would appear to be no more than a bland statement as to a state of fact pertaining to the Defendant's status and mandate as a Special Rapporteur and appears to have room for interpretation". The Court ordered that the Special Rapporteur's motion be dismissed with costs, that costs be taxed and paid forthwith by him and that he file and serve his defence within 14 days. On 8 July, the Court of Appeal dismissed Mr. Cumaraswamy's motion for a stay of execution.

In July 1997, the Legal Counsel called on the Malaysian Government to intervene in the current proceedings so that the burden of any further defence, including any expenses and taxed costs resulting therefrom, could be assumed by the Government; to hold Mr. Cumaraswamy harmless in respect of the expenses he had already incurred or that were being taxed to him in respect of the proceedings so far; and, so as to prevent the accumulation of additional expenses and costs and the further need to submit a defence until the matter of his immunity was definitively resolved between the United Nations and the Government, to support a motion to have the High Court proceedings stayed until such resolution. The Legal Counsel referred to the provisions for the settlement of differences arising out of the interpretation and application of the 1946 Convention that might arise between the Organization and a member State, which are set out in Section 30 of the Convention, and indicated that if the Government decided that it could not or did not wish to protect and to hold harmless the Special Rapporteur in the indicated manner, a difference within the meaning of those provisions might be considered to have arisen between the Organization and the Government of Malaysia.

Section 30 of the Convention provides as follows:

> "*Section 30.* All differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between the United Nations on the one hand and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court. The opinion given by the Court shall be accepted as decisive by the parties."

On 10 July, yet another lawsuit was filed against the Special

Rapporteur. On 11 July, the Secretary-General issued a note corresponding to the one of 7 March 1997 and also communicated a note verbale with essentially the same text to the Permanent Representative of Malaysia with the request that it be presented formally to the competent Malaysian court by the Government. On 23 October and 21 November 1997, new plaintiffs filed third and fourth lawsuits against the Special Rapporteur. On 27 October and 22 November 1997, the Secretary-General issued identical certificates of the Special Rapporteur's immunity.

On 7 November 1997, the Secretary-General advised the Prime Minister of Malaysia that a difference might have arisen between the United Nations and the Government of Malaysia and about the possibility of resorting to the International Court of Justice pursuant to Section 30 of the Convention. Nonetheless on 19 February 1998, the Federal Court of Malaysia denied Mr. Cumaraswamy's application for leave to appeal stating that he was neither a sovereign nor a full-fledged diplomat but merely "an unpaid, part-time provider of information".

The Secretary-General then appointed a Special Envoy, Maître Yves Fortier of Canada, who, after two official visits to Kuala Lumpur, and after negotiations to reach an out-of-court settlement had failed, advised that the matter should be referred to the Council to request an advisory opinion from the International Court of Justice. The United Nations had exhausted all efforts to reach either a negotiated settlement or a joint submission through the Council to the International Court of Justice. In this connection, the Government of Malaysia had acknowledged the Organization's right to refer the matter to the Council to request an advisory opinion in accordance with Section 30 of the Convention, advised the Secretary-General's Special Envoy that the United Nations should proceed to do so, and indicated that, while it would make its own presentations to the International Court of Justice, it did not oppose the submission of the matter to that Court through the Council.

*

After reproducing paragraphs 1-15 of the Secretary-General's note, the Court then refers to the dossier of documents submitted to it by the Secretary-General, which contains additional information that bears on an understanding of the request to the Court, concerning the context in which Mr. Cumaraswamy was asked to give his comments, concerning the proceedings against Mr. Cumaraswamy in the High Court of Kuala Lumpur, which did not pass upon Mr. Cumaraswamy's immunity *in limine litis*, but held that it had jurisdiction to hear the case before it on the merits, including making a determination of whether Mr. Cumaraswamy was entitled to any immunity, a decision upheld by both the Court of Appeal and the Federal Court of Malaysia, and concerning the regular reports, which the Special Rapporteur made to the

Commission on Human Rights and in which he reported on the lawsuits initiated against him. The Court further refers to the consideration and adoption without a vote by the Council of the draft decision requesting the Court to give an advisory opinion on the question formulated therein, and the fact that at that meeting the Observer for Malaysia confirmed his previous criticism of the Secretary-General's note, but made no comment on the terms of the question to be put to the Court as now formulated by the Council. Finally, Malaysia's information on the status of proceedings in the Malaysian courts is referred to.

The Court's power to give an advisory opinion (paras. 22-27)

The Court begins by observing that this is the first time that the Court has received a request for an advisory opinion that refers to Article VIII, Section 30, of the General Convention, quoted above.

This section provides for the exercise of the Court's advisory function in the event of a difference between the United Nations and one of its Members. The existence of such a difference does not change the advisory nature of the Court's function, which is governed by the terms of Article 96 of the Charter and Article 65 of the Statute. A distinction should thus be drawn between the advisory nature of the Court's task and the particular effects that parties to an existing dispute may wish to attribute, in their mutual relations, to an advisory opinion of the Court, which, "as such . . . has no binding force". These particular effects, extraneous to the Charter and the Statute which regulate the functioning of the Court, are derived from separate agreements; in the present case Article VIII, Section 30, of the General Convention provides that "[t]he opinion given by the Court shall be accepted as decisive by the parties". That consequence has been expressly acknowledged by the United Nations and by Malaysia.

The power of the Court to give an advisory opinion is derived from Article 96, paragraph 2, of the Charter and from Article 65 of the Statute. Both provisions require that the question forming the subject-matter of the request should be a "legal question". This condition is satisfied in the present case, as all participants in the proceedings have acknowledged, because the advisory opinion requested relates to the interpretation of the General Convention, and to its application to the circumstances of the case of the Special Rapporteur, Dato' Param Cumaraswamy.

Article 96, paragraph 2, of the Charter also requires that the legal questions forming the subject-matter of advisory opinions requested by authorized organs of the United Nations and specialized agencies shall arise "within the scope of their activities". The fulfilment of this condition has not been questioned by any of the participants in the present proceedings. The Court finds that the legal questions submitted by the Council in its request concern the activities of the Commission since they relate to the mandate of its Special Rapporteur appointed "to inquire into substantial allegations concerning, and to identify and record attacks on, the independence of the judiciary, lawyers and court officials".

Discretionary power of the Court (paras. 28-30)

As the Court held in its Advisory Opinion of 30 March 1950, the permissive character of Article 65 of the Statute "gives the Court the power to examine whether the circumstances of the case are of such a character as should lead it to decline to answer the Request" (*Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion, I.C.J. Reports 1950*, p. 72). In the present case, the Court, having established its jurisdiction, finds no compelling reasons not to give the advisory opinion requested by the Council. Moreover, no participant in these proceedings questioned the need for the Court to exercise its advisory function in this case.

The question on which the opinion is requested (paras. 31-37)

As the Council indicated in the preamble to its decision 1998/297, that decision was adopted by the Council on the basis of the note submitted by the Secretary-General on "Privileges and Immunities of the Special Rapporteur of the Commission on Human Rights on the Independence of Judges and Lawyers". Paragraph 1 of the operative part of the decision refers expressly to paragraphs 1 to 15 of that note but not to paragraph 21, containing two questions that the Secretary-General proposed submitting to the Court. The Court would point out that the wording of the question submitted by the Council is quite different from that proposed by the Secretary-General.

Participants in these proceedings, including Malaysia and other States, have advanced differing views as to what is the legal question to be answered by the Court. The Court observes that it is for the Council — and not for a member State or the Secretary-General — to formulate the terms of a question that the Council wishes to ask. Accordingly, the Court will now answer the question as formulated by the Council.

Applicability of Article VI, Section 22, of the General Convention to Special Rapporteurs of the Human Rights Commission (paras. 38-46)

The Court initially examines the first part of the question laid before the Court by the Council, which is:

> "the legal question of the applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations in the case of Dato' Param Cumaraswamy as Special Rapporteur of the Commission on Human Rights on the independence of judges and lawyers, taking into account the circumstances set out in paragraphs 1 to 15 of the note by the Secretary-General . . ."

From the deliberations which took place in the Council it is clear that the request of the Council does not only pertain to the threshold question whether Mr. Cumaraswamy was and is an expert on mission in the sense of Article VI, Section 22, of the General Convention but, in the event of an affirmative answer to this question, to the consequences of that finding in the circumstances of the case. The Court notes that Malaysia became a party to the General Convention, without reservation, on 28 October 1957. [Part of Section 22 of Article VI of that Convention is quoted above.]

The Court then recalls that in its Advisory Opinion of 14 December 1989 (in the so-called "*Mazilu*" case) it stated:

> "The purpose of Section 22 is evident, namely, to enable the United Nations to entrust missions to persons who do not have the status of an official of the Organization, and to guarantee them 'such privileges and immunities as are necessary for the independent exercise of their functions'. The essence of the matter lies not in their administrative position but in the nature of their mission." (*I.C.J. Reports 1989*, p. 194, para. 47.)

In that same Advisory Opinion, it concluded that a Special Rapporteur who is appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and is entrusted with a research mission must be regarded as an expert on mission within the meaning of Article VI, Section 22, of the General Convention.

The Court finds that the same conclusion must be drawn with regard to Special Rapporteurs appointed by the Human Rights Commission, of which the Sub-Commission is a subsidiary organ. It observes that Special Rapporteurs of the Commission usually are entrusted not only with a research mission but also with the task of monitoring human rights violations and reporting on them. But what is decisive is that they have been entrusted with a mission by the United Nations and are therefore entitled to the privileges and immunities provided for in Article VI, Section 22, that safeguard the independent exercise of their functions. After examining Mr. Cumaraswamy's mandate, the Court finds that he must be regarded as an expert on mission within the meaning of Article VI Section 22, as from 21 April 1994, that by virtue of this capacity the provisions of this Section were applicable to him at the time of his statements at issue, and that they continue to be applicable.

The Court finally observes that Malaysia has acknowledged that Mr. Cumaraswamy, as Special Rapporteur of the Commission, is an expert on mission and that such experts enjoy the privileges and immunities provided for under the General Convention in their relations with States parties, including those of which they are nationals or on the territory of which they reside. Malaysia and the United Nations are in full agreement on these points, as are the other States participating in the proceedings.

Applicability of Article VI, Section 22, of the General Convention in the specific circumstances of the case (paras. 47-56)

The Court then considers the question whether the immunity provided tion of Section 22 (b) applies to Mr. Cumaraswamy in the specific circumstances of the case; namely, whether the words used by him in the interview, as published in the article in *International Commercial Litigation* (November 1995 issue), were spoken in the course of the performance of his mission, and whether he was therefore immune from legal process with respect to these words.

In the process of determining whether a particular expert on mission is entitled, in the prevailing circumstances, to the immunity provided for in Section 22 (b), the Secretary-General of the United Nations has a pivotal role to play. The Secretary-General, as the chief administrative officer of the Organization, has the authority and the responsibility to exercise the necessary protection where required. Article VI, Section 23, of the General Convention provides that "[p]rivileges and immunities are granted to experts in the interests of the United Nations and not for the personal benefit of the individuals themselves". In exercising protection of United Nations experts, the Secretary-General is therefore protecting the mission with which the expert is entrusted. In that respect, the Secretary-General has the primary responsibility and authority to protect the interests of the Organization and its agents, including experts on mission.

The determination whether an agent of the Organization has acted in the course of the performance of his mission depends upon the facts of a particular case. In the present case, the Secretary-General, or the Legal Counsel of the United Nations on his behalf, has on numerous occasions informed the Government of Malaysia of his finding that Mr. Cumaraswamy had spoken the words quoted in the article in *International Commercial Litigation* in his capacity as Special Rapporteur of the Commission and that he consequently was entitled to immunity from "every kind" of legal process. The Secretary-General was reinforced in this view by the fact that it has become standard practice of Special Rapporteurs of the Commission to have contact with the media.

The Court notes that Mr. Cumaraswamy was explicitly referred to several times in the article "Malaysian Justice on Trial" in *International Commercial Litigation* in his capacity as United Nations Special Rapporteur on the Independence of Judges and Lawyers, and further that in its various resolutions the Commission took note of the Special Rapporteur's reports and of his methods of work. In 1997, it extended his mandate for another three years. The Commission presumably would not have so acted if it had been of the opinion that Mr. Cumaraswamy had gone beyond his mandate and had given the interview to *International Commercial Litigation* outside the course of his functions. Thus the Secretary-General was able to find support for his findings in the Commission's position.

The Court concludes that it is not called upon in the present case to pass upon the aptness of the terms used by the Special Rapporteur or his assessment of the situation. In any event, in view of all the circumstances of this case, elements of which are set out in paragraphs 1 to 15 of the note by the Secretary-General, the Court is of the opinion that the Secretary-General correctly found that Mr. Cumaraswamy, in speaking the words quoted in the article in *International Commercial Litigation*, was acting in the course of the performance of his mission as Special Rapporteur of the Commission. Consequently, Article VI, Section 22 (*b*), of the General Convention is applicable to him in the present case and affords Mr. Cumaraswamy immunity from legal process of every kind.

Legal obligations of Malaysia in the case (paras. 53-65)

The Court then deals with the second part of the Council's question, namely, "the legal obligations of Malaysia in this case". Rejecting Malaysia's argument that it is premature to deal with that question, the Court points out that the difference which has arisen between the United Nations and Malaysia originated in the failure of the Government of Malaysia to inform the competent Malaysian judicial authorities of the Secretary-General's finding that Mr. Cumaraswamy had spoken the words at issue in the course of the performance of his mission and was, therefore, entitled to immunity from legal process. It is as from the time of this omission that the question before the Court must be answered.

As the Court has observed, the Secretary-General, as the chief administrative officer of the Organization, has the primary responsibility to safeguard the interests of the Organization; to that end, it is up to him to assess whether its agents acted within the scope of their functions and, where he so concludes, to protect these agents, including experts on mission, by asserting their immunity. This means that the Secretary-General has the authority and responsibility to inform the government of a member State of his finding and, where appropriate, to request it to act accordingly and, in particular, to request it to bring his finding to the knowledge of the local courts if acts of an agent have given or may give rise to court proceedings. That finding, and its documentary expression, creates a presumption of immunity which can only be set aside for the most compelling reasons and is thus to be given the greatest weight by national courts. The governmental authorities of a party to the General Convention are therefore under an obligation to convey such information to the national courts concerned, since a proper application of the Convention by them is dependent on such information. Failure to comply with this obligation, among others, could give rise to the institution of proceedings under Article VIII, Section 30, of the General Convention.

The Court concludes that the Government of Malaysia had an obligation, under Article 105 of the Charter and under the General Convention, to inform its courts of the position taken by the Secretary-General. According to a well-established rule of international law, the conduct of any organ of a State must be regarded as an act of that State. Because the Government did not transmit the Secretary-General's finding to the competent courts, and the Minister for Foreign Affairs did not refer to it in his own certificate. Malaysia did not comply with the above-mentioned obligation.

Section 22 *(b)* of the General Convention explicitly states that experts on mission shall be accorded immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of the performance of their mission. By necessary implication, questions of immunity are therefore preliminary issues which must be expeditiously decided *in limine litis*. This is a generally-recognized principle of law, and Malaysia was under an obligation to respect it. The Malaysian courts did not rule *in limine litis* on the immunity of the Special Rapporteur, thereby nullifying the essence of the immunity rule contained in Section 22 *(b)*. Moreover, costs were taxed to Mr. Cumaraswamy while the question of immunity was still unresolved. As indicated above, the conduct of an organ of a State — even an organ independent of the executive power — must be regarded as an act of that State. Consequently, Malaysia did not act in accordance with its obligations under international law.

The Court adds that the immunity from legal process to which it finds Mr. Cumaraswamy entitled entails holding Mr. Cumaraswamy financially harmless for any costs imposed upon him by the Malaysian courts, in particular taxed costs.

It further observes that, according to Article VIII, Section 30, of the General Convention, the opinion given by the Court shall be accepted as decisive by the parties to the dispute. Malaysia has acknowledged its obligations under Section 30. Since the Court holds that Mr. Cumaraswamy is an expert on mission who under Section 22 *(b)* is entitled to immunity from legal process, the Government of Malaysia is obligated to communicate this advisory opinion to the competent Malaysian courts, in order that Malaysia's international obligations be given effect and Mr. Cumaraswamy's immunity be respected.

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Finally, the Court points out that the question of immunity from legal process is distinct from the issue of compensation for any damages incurred as a result of acts performed by the United Nations or by its agents acting in their official capacity. The United Nations may be required to bear responsibility for the damage arising from such acts. However, as is clear from Article VIII, Section 29, of the General Convention, such compensation claims against the United Nations shall not be dealt with by national courts but shall be settled in accordance with the appropriate modes of settlement that the "United Nations shall make provisions for" pursuant to Section 29. The Court furthermore considers that it need hardly be said that all agents of the United Nations, in whatever official capacity they act, must take care not to exceed the scope of their functions, and should so comport themselves as to avoid claims against the United Nations.

Operative paragraph (para. 67):

"For these reasons,

THE COURT

Is of the opinion:

(1) *(a)* By fourteen votes to one,

That Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations is applicable in the case of Dato' Param Cumaraswamy as Special Rapporteur of the Commission on Human Rights on the Independence of Judges and Lawyers;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek;

AGAINST: *Judge* Koroma;

(b) By fourteen votes to one,

That Dato' Param Cumaraswamy is entitled to immunity from legal process of every kind for the words spoken by him during an interview as published in an article in the November 1995 issue of *International Commercial Litigation*;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek;

AGAINST: *Judge* Koroma;

(2) *(a)* By thirteen votes to two,

That the Government of Malaysia had the obligation to inform the Malaysian courts of the finding of the Secretary-General that Dato' Param Cumaraswamy was entitled to immunity from legal process;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek;

AGAINST: *Judges* Oda, Koroma;

(b) By fourteen votes to one,

That the Malaysian courts had the obligation to deal with the question of immunity from legal process as a preliminary issue to be expeditiously decided *in limine litis*;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek;

AGAINST: *Judge* Koroma;

(3) Unanimously,

That Dato' Param Cumaraswamy shall be held financially harmless for any costs imposed upon him by the Malaysian courts, in particular taxed costs;

(4) By thirteen votes to two,

That the Government of Malaysia has the obligation to communicate this advisory opinion to the Malaysian courts, in order that Malaysia's international obligations be given effect and Dato' Param Cumaraswamy's immunity be respected;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek;

AGAINST: *Judges* Oda, Koroma."

*

Vice-President Weeramantry, and Judges Oda and Rezek appended separate opinions to the Advisory Opinion (*I.C.J. Reports 1999*, pp. 92-98, 99-108 and 109-110); Judge Koroma appended a dissenting opinion (*ibid.*, pp. 111-122).

II. APPLICATION OF THE STATUTE AND RULES OF COURT

1. Organization of the Court

(a) *The Presidency*

(Statute, Art. 48; Rules, Arts. 13, paras. 2 and 3, 32, para. 1, and 74, para. 4)

In the case concerning *LaGrand (Germany* v. *United States of America)* the President, being a national of one of the Parties, did not, in accordance with Article 32, paragraph 1, of the Rules of Court, exercise the functions of the Presidency. In accordance with Article 13, paragraph 1, of the Rules the Vice-President exercised those functions. The President of the Court, being a national of one of the Parties also in the case concerning *Legality of Use of Force (Yugoslavia* v. *United States of America)* did not exercise the functions of the Presidency in that case, and considered that it would not be appropriate for him to exercise those functions in the cases concerning *Legality of Use of Force (Yugoslavia* v. *Belgium)* *(Yugoslavia* v. *Canada)* *(Yugoslavia* v. *France)* *(Yugoslavia* v. *Germany)* *(Yugoslavia* v. *Italy)* *(Yugoslavia* v. *Netherlands)* *(Yugoslavia* v. *Portugal)* *(Yugoslavia* v. *Spain)* and *(Yugoslavia* v. *United Kingdom)* either. The Vice-President exercised the said functions accordingly in all ten cases.

In each of the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *(Libyan Arab Jamahiriya* v. *United States of America)* the Senior Judge, Acting President, made an Order extending the time-limit for the filing of a Counter-Memorial by the Respondent. He also made an Order fixing time-limits for the submission of written statements and of written comments on those statements in the advisory case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* (see below under 3 *(b)*, p. 300, and under 4 *(d)*, p. 308).

(b) *Non-participation of a judge in a case*

(Statute, Art. 23, para. 3, Rules, Art. 20, para. 2)

With the permission of the Court, one of its Members was absent for one week during the hearings in the case concerning *Kasikili/Sedudu Island* (*Botswana/Namibia*). Two other Members were unable to attend part of those hearings also.

For various reasons duly explained to the President, one Member of the Court was absent during the hearings on the requests for provisional measures in the cases concerning *Legality of Use of Force (Yugoslavia* v. *Belgium)* *(Yugoslavia* v. *Canada)* *(Yugoslavia* v. *France)* *(Yugoslavia* v. *Germany)* *(Yugoslavia* v. *Italy)* *(Yugoslavia* v. *Netherlands)* *(Yugoslavia* v. *Portugal)* *(Yugoslavia* v. *Spain)* *(Yugoslavia* v. *United Kingdom)* and *(Yugoslavia* v. *United States of America)*. He consequently did not participate in the Court's decisions on those requests.

During the hearings in the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* (Request for Advisory Opinion), one Member of the Court was absent during the second round.

(c) Judges *ad hoc*

(Statute, Arts. 20 and 31; Rules, Arts. 4, 8 and 35)

The judges *ad hoc* chosen by the two Parties in the case concerning the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon *v.* Nigeria), Preliminary Objections *(Nigeria* v. *Cameroon)* made the solemn declaration required by the Statute and Rules of Court at a short public sitting held for the purpose, on 17 February 1999.

The five judges *ad hoc* nominated by the applicant State and by the respondent States in the cases concerning *Legality of Use of Force (Yugoslavia v. Belgium)*, *(Yugoslavia v. Canada)*, *(Yugoslavia v. Italy)* and *(Yugoslavia v. Spain)* all made the solemn declaration at the opening of the hearings on the requests for provisional measures, on 10 May 1999, after the Court had found in each of those cases that the nomination of a judge *ad hoc* by the Respondent "was justified in the present phase of the case", rejecting the objections which the applicant State, referring to Article 31, paragraph 5, of the Statute, had made to the respondent States' choices.

(d) *Chamber of Summary Procedure*

(Statute, Art. 29)

On 28 January 1999 the Court composed the Chamber of Summary Procedure, consisting of five judges and two substitute judges (see Chapter I, p. 18 above).

2. *Jurisdiction of the Court (Lato sensu)*

(a) *General*

(Statute, Art. 36)

In its Judgment of 4 December 1998 in the case concerning *Fisheries Jurisdiction (Spain v. Canada)* (see above, p. 207), the Court made the following observations with regard to the establishment of its jurisdiction:

> "36. As Spain sees it, Canada has in principle accepted the jurisdiction of the Court through its declaration under Article 36, paragraph 2, of the Statute, and it is for Canada to show that the reservation contained in paragraph 2 *(d)* thereto does exempt the dispute between the Parties from this jurisdiction. Canada, for its part, asserts that Spain must bear the burden of showing why the clear words of paragraph 2 *(d)* do not withhold this matter from the jurisdiction of the Court.
>
> 37. The Court points out that the establishment or otherwise of jurisdiction is not a matter for the parties but for the Court itself. Although a party seeking to assert a fact must bear the burden of proving it (see *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984*, p. 437, para. 101), this has no relevance for the establishment of the Court's jurisdiction, which is a 'question of law to be resolved in the light of the relevant facts' (*Border and Transborder Armed Actions (Nicaragua v. Honduras), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1988*, p. 76, para. 16).
>
> 38. That being so, there is no burden of proof to be discharged in the matter of jurisdiction. Rather, it is for the Court to determine

> from all the facts and taking into account all the arguments advanced by the Parties, 'whether the force of the arguments militating in favour of jurisdiction is preponderant', and to 'ascertain whether an intention on the part of the Parties exists to confer jurisdiction upon it'" (*Border and Transborder Armed Actions (Nicaragua v. Honduras), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1988*, p. 76, para. 16; see also *Factory at Chorzów, Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9*, p. 32)."

In that same Judgment the Court also made the following observation:

> "55. There is a fundamental distinction between the acceptance by a State of the Court's jurisdiction and the compatibility of particular acts with international law. The former requires consent. The latter question can only be reached when the Court deals with the merits, after having established its jurisdiction and having heard full legal argument by both parties.
>
> 56. Whether or not States accept the jurisdiction of the Court, they remain in all cases responsible for acts attributable to them that violate the rights of other States. Any resultant disputes are required to be resolved by peaceful means, the choice of which, pursuant to Article 33 of the Charter, is left to the parties."

A similar observation is made at the end of each of the ten Orders on the requests for indication of provisional measures, given by the Court on 2 June 1999, in the cases concerning the *Legality of Use of Force (Yugoslavia v. Belgium)*, *(Yugoslavia v. Canada)*, *(Yugoslavia v. France)*, *(Yugoslavia v. Germany)*, *(Yugoslavia v. Italy)*, *(Yugoslavia v. Netherlands)*, *(Yugoslavia v. Portugal)*, *(Yugoslavia v. Spain)*, *(Yugoslavia v. United Kingdom)* and *(Yugoslavia v. United States of America)*.

In the two cases concerning *Legality of Use of Force (Yugoslavia v. Spain)* and *(Yugoslavia v. United States of America)* the Court ordered that the cases be removed from the List, having considered (in paragraphs 35 and 29 respectively) that

> "it follows from what has been said above that the Court manifestly lacks jurisdiction to entertain Yugoslavia's Application; whereas it cannot therefore indicate any provisional measure whatsoever in order to protect the rights invoked therein; and whereas, within a system of consensual jurisdiction, to maintain on the General List a case upon which it appears certain that the Court will not be able to adjudicate on the merits would most assuredly not contribute to the sound administration of justice".

In each of the cases concerning *Legality of Use of Force (Yugoslavia v. Belgium)* and *(Yugoslavia v. Netherlands)*, Yugoslavia submitted to the Court in the second round of the hearings a "Supplement to the Application", invoking Article 4 of the Convention of Conciliation, Judicial Settlement and Arbitration between Belgium and the Kingdom of Yugoslavia, signed in Belgrade on 25 March 1930, and Article 4 of the Treaty of Judicial Settlement, Arbitration and Conciliation between the Netherlands and the Kingdom of Yugoslavia, signed in The Hague on 11 March 1931, as a basis of the Court's jurisdiction in those respective cases, besides Article 36, paragraph 2, of the Court's Statute and Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide which had already been invoked in the respective Applications. Each of the respondent Parties objected to the late presentation by Yugoslavia of this new basis of jurisdiction and brought forward several arguments concerning the question of its validity. The Court, in each of the cases (para. 44), made the following observation:

> "the invocation by a party of a new basis of jurisdiction in the second round of oral argument on a request for the indication of provisional measures has never occurred in the Court's practice; ... such action at this late stage, when it is not accepted by the other party, seriously jeopardizes the principle of procedural fairness and the sound administration of justice; ... in consequence the Court cannot, for the purpose of deciding whether it may or may not indicate provisional measures in the present case, take into consideration the new title of jurisdiction which Yugoslavia sought to invoke on 12 May 1999".

(b) *Declaration recognizing as compulsory the jurisdiction of the Court*

(Statute, Art. 36, para. 2)

With regard to declarations made under Article 36, paragraph 2, of the Statute, and of any reservations they contain, the Court, in its Judgment of 4 December 1998 in the case concerning *Fisheries Jurisdiction (Spain v. Canada)* (see above, p. 207) recalled that their interpretation

> "is directed to establishing whether mutual consent has been given to the jurisdiction of the Court.
>
> 44. It is for each State, in formulating its declaration, to decide upon the limits it places upon its acceptance of the jurisdiction of the Court: 'This jurisdiction only exists within the limits within which it has been accepted' (*Phosphates in Morocco, Judgment, 1938, P.C.I.J., Series A/B, No. 74*, p. 23). Conditions or reservations thus do not by their terms derogate from a wider acceptance already given. Rather, they operate to define the parameters of the State's acceptance of the compulsory jurisdiction of the Court. There is thus no reason to interpret them restrictively. All elements in a declaration under Article 36, paragraph 2, of the Statute which, read together, comprise the acceptance by the declarant State of the Court's jurisdiction, are to be interpreted as a unity, applying the same legal principles of interpretation throughout.
>
> 45. This is true even when, as in the present case, the relevant expression of a State's consent to the Court's jurisdiction, and the

limits to that consent, represent a modification of an earlier expression of consent, given within wider limits. An additional reservation contained in a new declaration of acceptance of the Court's jurisdiction, replacing an earlier declaration, is not to be interpreted as a derogation from a more comprehensive acceptance given in that earlier declaration; thus, there is no reason to interpret such a reservation restrictively. Accordingly, it is the declaration in existence that alone constitutes the unity to be interpreted, with the same rules of interpretation applicable to all its provisions, including those containing reservations.

46. A declaration of acceptance of the compulsory jurisdiction of the Court, whether there are specified limits set to that acceptance or not, is a unilateral act of State sovereignty. At the same time, it establishes a consensual bond and the potential for a jurisdictional link with the other States which have made declarations pursuant to Article 36, paragraph 2, of the Statute, and 'makes a standing offer to the other States party to the Statute which have not yet deposited a declaration of acceptance' (*Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections, I.C.J. Reports 1998*, para. 25). The régime relating to the interpretation of declarations made under Article 36 of the Statute is not identical with that established for the interpretation of treaties by the Vienna Convention on the Law of Treaties (*ibid.*, para. 30). Spain has suggested in its pleadings that '[t]his does not mean that the legal rules and the art of interpreting declarations (and reservations) do not coincide with those governing the interpretation of treaties'. The Court observes that the provisions of that Convention may only apply analogously to the extent compatible with the *sui generis* character of the unilateral acceptance of the Court's jurisdiction.

47. In the event, the Court has in earlier cases elaborated the appropriate rules for the interpretation of declarations and reservations. Every declaration 'must be interpreted as it stands, having regard to the words actually used' (*Anglo-Iranian Oil Co., Preliminary Objection, Judgment, I.C.J. Reports 1952*, p. 105). Every reservation must be given effect 'as it stands' (*Certain Norwegian Loans, Judgment, I.C.J. Reports 1957*, p. 27). Therefore, declarations and reservations are to be read as a whole. Moreover, 'the Court cannot base itself on a purely grammatical interpretation of the text. It must seek the interpretation which is in harmony with a natural and reasonable way of reading the text.' (*Anglo-Iranian Oil Co., Preliminary Objection, Judgment, I.C.J. Reports 1952*, p. 104.)

48. At the same time, since a declaration under Article 36, paragraph 2, of the Statute, is a unilaterally drafted instrument, the Court has not hesitated to place a certain emphasis on the intention of the depositing State. Indeed, in the case concerning *Anglo-Iranian Oil Co.*, the Court found that the limiting words chosen in Iran's

declaration were 'a decisive confirmation of the intention of the Government of Iran at the time when it accepted the compulsory jurisdiction of the Court' (*ibid.*, p. 107).

49. The Court will thus interpret the relevant words of a declaration including a reservation contained therein in a natural and reasonable way, having due regard to the intention of the State concerned at the time when it accepted the compulsory jurisdiction of the Court. The intention of a reserving State may be deduced not only from the text of the relevant clause, but also from the context in which the clause is to be read, and an examination of evidence regarding the circumstances of its preparation and the purposes intended to be served. In the *Aegean Sea Continental Shelf* case, the Court affirmed that it followed clearly from its jurisprudence that in interpreting the contested reservation

> 'regard must be paid to the intention of the Greek Government at the time when it deposited its instrument of accession to the General Act; and it was with that jurisprudence in mind that the Court asked the Greek Government to furnish it with any available evidence of explanations of the instrument of accession given at that time' (*Aegean Sea Continental Shelf, Judgment, I.C.J. Reports 1978*, p. 29, para. 69).

In the present case the Court has such explanations in the form of Canadian ministerial statements, parliamentary debates, legislative proposals and press communiques.

50. Where, moreover, an existing declaration has been replaced by a new declaration which contains a reservation, as in this case, the intentions of the Government may also be ascertained by comparing the terms of the two instruments.

51. The *contra proferentem* rule may have a role to play in the interpretation of contractual provisions. However, it follows from the foregoing analysis that the rule has no role to play in this case in interpreting the reservation contained in the unilateral declaration made by Canada under Article 36, paragraph 2, of the Statute.

52. The Court was addressed by both Parties on the principle of effectiveness. Certainly, this principle has an important role in the law of treaties and in the jurisprudence of this Court; however, what is required in the first place for a reservation to a declaration made under Article 36, paragraph 2, of the Statute, is that it should be interpreted in a manner compatible with the effect sought by the reserving State.

53. Spain has contended that, in case of doubt, reservations contained in declarations are to be interpreted consistently with legality and that any interpretation which is inconsistent with the Statute of the Court, the Charter of the United Nations or with general international law is inadmissible. Spain draws attention to the following finding of the Court in the *Right of Passage over Indian Territory*

case, where the Court had to rule on the compatibility of a reservation with the Statute:

> 'It is a rule of interpretation that a text emanating from a Government must, in principle, be interpreted as producing and as intended to produce effects in accordance with existing law and not in violation of it.' (*Right of Passage over Indian Territory, Preliminary Objections, Judgment, I.C.J. Reports 1957*, p. 142.)

Spain argues that, to comply with these precepts, it is necessary to interpret the phrase 'disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area and the enforcement of such measures' to refer only to measures which, since they relate to areas of the high seas, must come within the framework of an existing international agreement or be directed at stateless vessels. It further argues that an enforcement of such measures which involves a recourse to force on the high seas against vessels flying flags of other States could not be consistent with international law and that this factor too requires an interpretation of the reservation different from that given to it by Canada.

54. Spain's position is not in conformity with the principle of interpretation whereby a reservation to a declaration of acceptance of the compulsory jurisdiction of the Court is to be interpreted in a natural and reasonable way, with appropriate regard for the intentions of the reserving State and the purpose of the reservation. In point of fact, reservations from the Court's jurisdiction may be made by States for a variety of reasons, sometimes precisely because they feel vulnerable about the legality of their position or policy. Nowhere in the Court's case-law has it been suggested that interpretation in accordance with the legality under international law of the matters exempted from the jurisdiction of the Court is a rule that governs the interpretation of such reservations:

> 'Declarations of acceptance of the compulsory jurisdiction of the Court are facultative, unilateral engagements, that States are absolutely free to make or not to make. In making the declaration a State is equally free either to do so unconditionally and without limit of time for its duration, or to qualify it with conditions or reservations.' (*Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1984*, p. 418, para. 59.)

The holding of the Court relied on by Spain in the *Right of Passage over Indian Territory* case, which was concerned with a possible retroactive effect of a reservation, does not detract from this principle. The fact that a State may lack confidence as to the compatibility of certain of its actions with international law does

> not operate as an exception to the principle of consent to the jurisdiction of the Court and the freedom to enter reservations."

(c) *Preliminary objections*

(Statute, Art. 36, para. 6; Rules, Art. 79)

In the cases concerning *Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal)* and *(Yugoslavia v. United Kingdom)* the Court, by Orders of 30 June 1999 (see above, p. 272), fixed time-limits for the filing in each of those cases of a Memorial by Yugoslavia and a Counter-Memorial by the respective respondent Party. It did so after observing that

> "in order to ascertain the views of the Parties on the subsequent procedure, the Vice-President of the Court, Acting President, met their representatives on 28 June 1999; that at that meeting [the respondent State concerned], referring to the findings reached by the Court in its Order of 2 June 1999, requested that the question of the jurisdiction of the Court and of the admissibility of the Application in this case should be separately determined before any proceedings on the merits; that at that same meeting Yugoslavia opposed this request and stated that it wished to be permitted to submit a Memorial on the merits, as provided by the Rules of Court, it being understood that [the respondent State concerned] would be entitled, pursuant to Article 79, paragraph 1, of the Rules, to raise preliminary objections within the time-limit fixed for the filing of its Counter-Memorial".

3. *Contentious Procedure*

(a) *Institution of proceedings*

(Statute, Art. 40; Rules, Arts. 38 and 39)

In the case concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)*, proceedings were instituted by the joint notification of a Special Agreement. The Registrar proceeded with the requisite communications, in accordance with the Statute and Rules of Court (see above, p. 230).

In the cases concerning the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections *(Nigeria v. Cameroon)*, concerning *Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, concerning *LaGrand (Germany v. United States of America)*, concerning *Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v.

Netherlands), (*Yugoslavia* v. *Portugal*), (*Yugoslavia* v. *Spain*), (*Yugoslavia* v. *United Kingdom*) and (*Yugoslavia* v. *United States of America*), concerning *Armed Activities on the Territory of the Congo* (*Democratic Republic of the Congo* v. *Burundi*), (*Democratic Republic of the Congo* v. *Rwanda*) and (*Democratic Republic of the Congo* v. *Uganda*), and concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Croatia* v. *Yugoslavia*) proceedings were instituted by means of an Application. In all these cases the Registrar also proceeded with the requisite communications (see above, pp. 225, 231, 237, 272 and 274).

The ten cases concerning *Legality of Use of Force* were entered in the General List in their English alphabetical order. In the four cases concerning *Legality of Use of Force* (*Yugoslavia* v. *France*), (*Yugoslavia* v. *Germany*), (*Yugoslavia* v. *Italy*) and (*Yugoslavia* v. *United States of America*), Yugoslavia referred to Article IX of the Genocide Convention and to Article 38, paragraph 5, of the Rules of Court (see above, p. 238). These cases were entered in the General List on the basis of the reference to Article IX of the Genocide Convention. The three cases concerning *Armed Activities on the Territory of the Congo* were entered in the General List in their French alphabetical order.

In accordance with Article 38, paragraph 5, of the Rules of Court the Application which Eritrea filed on 16 February 1999 in a dispute with Ethiopia (see above, p. 171) was transmitted to the latter State. As Ethiopia, as of 31 July 1999, had not given its consent to the Court's jurisdiction, the Court has not entered the Application in the General List nor has it taken any action in the proceedings.

On the basis of Article 5, paragraph 3, of the Special Agreement which Slovakia and Hungary had concluded in 1993 in order to submit the case concerning the *Gabčíkovo-Nagymaros Project* (*Hungary*/*Slovakia*) to the Court, Slovakia, on 3 September 1998, filed a request for an additional judgment in that case (see above, p. 198).

In its Judgment of 4 December 1998 in the case concerning *Fisheries Jurisdiction* (*Spain* v. *Canada*) (above, p. 207) the Court found at the outset that:

> "23. Neither of the Parties denies that there exists a dispute between them. Each Party, however, characterizes the dispute differently. Spain has characterized the dispute as one relating to Canada's lack of entitlement to exercise jurisdiction on the high seas, and the non-opposability of its amended Coastal Fisheries Protection legislation and regulations to third States, including Spain. Spain further maintains that Canada, by its conduct, has violated Spain's rights under international law and that such violation entitles it to reparation. Canada states that the dispute concerns the adoption of measures for the conservation and management of fisheries stocks with respect to vessels fishing in the NAFO Regulatory Area and their enforcement."

The Court observes in this connection that:

> "29. There is no doubt that it is for the Applicant, in its Application, to present to the Court the dispute with which it wishes to seise the Court and to set out the claims which it is submitting to it. Paragraph 1 of Article 40 of the Statute of the Court requires moreover that the 'subject of the dispute' be indicated in the Application; and, for its part, paragraph 2 of Article 38 of the Rules of Court requires 'the precise nature of the claim' to be specified in the Application. In a number of instances in the past the Court has had occasion to refer to these provisions. It has characterized them as 'essential from the point of view of legal security and the good administration of justice' and, on this basis, has held inadmissible new claims, formulated during the course of proceedings, which, if they had been entertained, would have transformed the subject of the dispute originally brought before it under the terms of the Application (*Certain Phosphate Lands in Nauru (Nauru v. Australia), Preliminary Objections, Judgment, I.C.J. Reports 1992*, pp. 266-267; see also *Prince von Pless Administration, Order of 4 February 1933, P.C.I.J., Series A/B, No. 52*, p. 14 and *Société Commerciale de Belgique, Judgment, 1939, P.C.I.J., Series A/B, No. 78*, p. 173).
>
> In order to identify its task in any proceedings instituted by one State against another, the Court must begin by examining the Application (see *Interhandel, Preliminary Objections, Judgment, I.C.J. Reports 1959*, p. 21; *Right of Passage over Indian Territory, Merits, Judgment, I.C.J. Reports 1960*, p. 27; *Nuclear Tests (Australia v. France), Judgment, I.C.J. Reports 1974*, p. 260, para. 24). However, it may happen that uncertainties or disagreements arise with regard to the real subject of the dispute with which the Court has been seised, or to the exact nature of the claims submitted to it. In such cases the Court cannot be restricted to a consideration of the terms of the Application alone nor, more generally, can it regard itself as bound by the claims of the Applicant.
>
> Even in proceedings instituted by Special Agreement, the Court has determined for itself, having examined all of the relevant instruments, what was the subject of the dispute brought before it, in circumstances where the parties could not agree on how it should be characterized (see *Territorial Dispute (Libyan Arab Jamahiriya/Chad), Judgment, I.C.J. Reports 1994*, pp. 14-15, para. 19, and p. 28, para. 57).
>
> 30. It is for the Court itself, while giving particular attention to the formulation of the dispute chosen by the Applicant, to determine on an objective basis the dispute dividing the parties, by examining the position of both Parties.
>
> > '[I]t is the Court's duty to isolate the real issue in the case and to identify the object of the claim. It has never been contested that the Court is entitled to interpret the submissions of the parties, and

> in fact is bound to do so; this is one of the attributes of its judicial functions' (*Nuclear Tests (New Zealand v. France), Judgment, I.C.J. Reports 1974*, p. 466, para. 30; see also *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the* Nuclear Tests (New Zealand v. France) *Case, Order of 22 September 1995, I.C.J. Reports 1995*, p. 304, para. 55.)
>
> The Court's jurisprudence shows that the Court will not confine itself to the formulation by the Applicant when determining the subject of the dispute."

The Court goes on to state:

> "31. The Court will itself determine the real dispute that has been submitted to it (see *Maritime Delimitation and Territorial Questions between Qatar and Bahrain, Jurisdiction and Admissibility, Judgment, I.C.J. Reports 1995*, pp. 24-25). It will base itself not only on the Application and final submissions, but on diplomatic exchanges, public statements and other pertinent evidence (see *Nuclear Tests (Australia v. France), Judgment, I.C.J. Reports 1974*, pp. 262-263).
>
> 32. In so doing, the Court will distinguish between the dispute itself and arguments used by the parties to sustain their respective submissions on the dispute:
>
>> 'The Court has . . . repeatedly exercised the power to exclude, when necessary, certain contentions or arguments which were advanced by a party as part of the submissions, but which were regarded by the Court, not as indications of what the party was asking the Court to decide, but as reasons advanced why the Court should decide in the sense contended for by that party.' (*Nuclear Tests (Australia v. France), Judgment, I.C.J. Reports 1974*, p. 262, para. 29; see also cases concerning *Fisheries, Judgment, I.C.J. Reports 1951*, p. 126; *Minquiers and Ecrehos, Judgment, I.C.J. Reports 1953*, p. 52; *Nottebohm, Second Phase, Judgment, I.C.J. Reports 1955*, p. 16.)"

(b) *Fixing of time-limits*

In the case concerning the *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, the Court, upon a request by Qatar and taking into account the concordant views of the Parties on treatment of 82 disputed documents and their agreement on the extension of time-limits for the filing of Replies as expressed in an exchange of letters, placed on record Qatar's decision to disregard the 82 documents challenged by Bahrain, decided that the Replies would not rely on these documents and extended the time-limit for the submission of a Reply by each of the Parties.

In each of the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial*

Incident at Lockerbie (*Libyan Arab Jamahiriya* v. *United Kingdom*) and (*Libyan Arab Jamahiriya* v. *United States of America*) the Senior Judge, Acting President, upon a proposal of the respondent State and after the views of the applicant State had been ascertained, extended the time-limit for the filing of a Counter-Memorial by the respondent State. After the filing of those Counter-Memorials, the Court, taking account of the agreement of the Parties and the special circumstances of the case, authorized the filing of a Reply by the applicant State, fixing the time-limit therefor. It also authorized the submission of a Rejoinder by each of the respondent States, but fixed no time-limit for their filing (see above, p. 181).

In the case concerning *Oil Platforms* (*Islamic Republic of Iran* v. *United States of America*), the Court extended the time-limits for the filing of the Reply of the applicant Party and the Rejoinder of the respondent Party, upon a request by the Applicant and after the views of the Respondent had been ascertained (see above, p. 184).

The time-limits for the filing of the Respondent's Rejoinder in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina* v. *Yugoslavia*) and for the filing of the Respondent's Counter-Memorial in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria* (*Cameroon* v. *Nigeria*) were extended upon a request from the Respondent and after the views of the Applicant had been ascertained. In the latter case the Court also fixed time-limits for a Reply by the Applicant and a Rejoinder by the Respondent; it further fixed a time-limit for the filing of written observations by each of the Parties on a request for permission to intervene filed by a third State (see above, pp. 194, 203 and 204).

In the case concerning the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (*Nigeria* v. *Cameroon*), the Senior Judge, Acting President, fixed a time-limit for the submission, by the respondent State, of written observations on the applicant State's request for interpretation. After the filing of those observations, the Court, in the light of the dossier thus submitted, did not deem it necessary to invite the Parties to furnish further written or oral explanations (see above, p. 226).

In the cases concerning *Sovereignty over Pulau Ligitan and Pulau Sipadan* (*Indonesia/Malaysia*), *LaGrand* (*Germany* v. *United States of America*) and *Legality of Use of Force* (*Yugoslavia* v. *Belgium*) (*Yugoslavia* v. *Canada*) (*Yugoslavia* v. *France*) (*Yugoslavia* v. *Germany*) (*Yugoslavia* v. *Italy*) (*Yugoslavia* v. *Netherlands*) (*Yugoslavia* v. *Portugal*) and (*Yugoslavia* v. *United Kingdom*), the Court fixed time-limits for the filing of a Memorial and a Counter-Memorial by each of the Parties in the first case, and of a Memorial by the applicant Party and of a Counter-Memorial by the respondent Party in each of the other cases (see above, pp. 231, 237 and 272).

(c) *Filing of pleadings*

Replies by each of the Parties in the cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)* and *Kasikili/Sedudu Island (Botswana/Namibia)* and a Reply by the applicant Party in the case concerning *Oil Platforms (Islamic Republic of Iran v. United States of America)* were filed within the time-limits fixed (and extended in the first and last cases mentioned). In the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)* and *(Libyan Arab Jamahiriya v. United States of America)* and concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, Counter-Memorials were filed by the respondent States within the time-limits as extended (see above, pp. 177, 221, 181, 184, 204).

In the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)* the Rejoinder was filed by the respondent State within the time-limit as extended (see above, p. 195).

In the case concerning *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* Hungary filed a written statement of its position on the request for an additional judgment made by Slovakia within the time-limit fixed. The applicant State in the case concerning the *Vienna Convention on Consular Relations (Paraguay v. United States of America)* filed its Memorial within the time-limit as extended (see above, pp. 199 and 224).

In the case concerning the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections *(Nigeria v. Cameroon)*, the respondent State filed its written observations on the request for interpretation within the time-limit fixed (see above, p. 226).

(d) *Presentation of new documents*

(Statute, Art. 52; Rules, Art. 56)

Before the opening of the hearings in the case concerning *Fisheries Jurisdiction (Spain v. Canada)*, the applicant State, referring to Article 56 of the Rules of Court, submitted five official documents of the respondent State which had been published but not previously produced. The Agent of the respondent Party stated that, in his Government's opinion, the provision referred to by the Applicant afforded the possibility of making reference in oral arguments to documents which were part of readily available publications, but did not contemplate their production, adding that despite the late date of submission of the documents in question the Respondent would not object to their production, in order to avoid delaying the work of the Court.

In the case concerning *Kasikili/Sedudu Island (Botswana/Namibia)* one of the Parties, before the opening of the hearings, as well as during the first round of those hearings, expressed the desire to submit new documents. Both Parties expressed such a desire during the second round of the hearings. As in all cases the other Party had no objections, the Court decided to admit those filings.

(e) *Oral proceedings*

(Statute, Arts. 43, 45 and 46; Rules, Arts. 54, 58, 59 and 74, para. 3)

The hearings in the case concerning *Kasikili/Sedudu Island (Botswana/Namibia)* consisted of two rounds of oral arguments in which both States participated.

The Court also held two rounds of hearings on the requests for the indication of provisional measures made by Yugoslavia in each of the cases concerning *Legality of Use of Force (Yugoslavia v. Belgium)*, *(Yugoslavia v. Canada)*, *(Yugoslavia v. France)*, *(Yugoslavia v. Germany)*, *(Yugoslavia v. Italy)*, *(Yugoslavia v. Netherlands)*, *(Yugoslavia v. Portugal)*, *(Yugoslavia v. Spain)*, *(Yugoslavia v. United Kingdom)* and *(Yugoslavia v. United States of America)* (see below, p. 303 under (j)). They were held under the following practical arrangements: Yugoslavia, being both the Applicant and the State seeking provisional measures, spoke first, addressing its requests for the indication of provisional measures in respect of all the cases. It was followed by the individual Respondents, each of which addressed the case to which it was Party. For the purposes of these cases, the Respondents were heard in their English alphabetical order, which was also the order in which the various cases had been entered on the Court's General List. The Vice-President, Acting President, observed that these practical arrangements were without prejudice to any subsequent decision by the Court, pursuant to Article 47 of its Rules, at any time to direct that proceedings be joined, or to direct common action in respect of one or more elements of the proceedings pending before it.

In the case concerning the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections *(Nigeria v. Cameroon)*, the Court did not hold any hearings.

(f) *Accessibility of pleadings to the public*

(Rules, Art. 53, para. 2)

In the case concerning *Kasikili/Sedudu Island (Botswana/Namibia)* the Court, after ascertaining the views of the Parties, decided to make the pleadings and documents annexed accessible to the public on the opening of the oral proceedings.

(g) *Questions put by judges*

(Statute, Art. 49; Rules, Arts. 61 and 72)

During the hearings in the case concerning *Kasikili/Sedudu Island*

(*Botswana/Namibia*) questions were put to both Parties by the President and four other Members of the Court. The replies were given in writing within the prescribed time-limit.

(h) *Evidence*

Each of the Parties in the case concerning *Kasikili/Sedudu Island* (*Botswana/Namibia*) showed a videotape in the course of the oral proceedings, copies of which had been transmitted to the other Party.

(i) *Final submissions*

(Rules, Art. 60, para. 2)

In the second round of oral arguments in the case concerning *Kasikili/Sedudu Island* (*Botswana/Namibia*), the Agents of both Parties read the final submissions of their Governments, which they also submitted in writing.

(j) *Provisional measures*

(Statute, Art. 41; Rules, Arts. 73, 74 and 75)

In the case concerning *LaGrand* (*Germany* v. *United States of America*) the Applicant made a request for the indication of provisional measures on the same day on which the Application was filed (see above, p. 233). The Registrar proceeded immediately with the required transmittals. By a letter of the same day the Vice-President, Acting President, under the provisions of Article 74, paragraph 4, of the Rules of Court, drew "the attention of [the] Government [of the United States] to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

The next day the Court, "as a matter of the greatest urgency and without any other proceedings . . .", made an Order indicating provisional measures (see above, p. 234).

In its Order the Court observed that

> "under Article 75, paragraph 1, of the Rules of Court, the latter 'may at any time decide to examine *proprio motu* whether the circumstances of the case require the indication of provisional measures which ought to be taken or complied with by any or all of the parties'; [that] a provision of this kind has substantially featured in the Rules of Court since 1936, and whereas, if the Court has not, to date, made use of the power conferred upon it by this provision, the latter appears nonetheless to be clearly established; [that] the Court may make use of this power, irrespective of whether or not it has been seised by the parties of a request for the indication of provisional measures; [that] in such a case it may, in the event of extreme urgency, proceed without holding oral hearings; and [that] it is for the Court to decide in each case if, in the light of the particular circumstances of the case, it should make use of the said power."

The Court further observed that

> "the issues before the Court in this case do not concern the entitlement of the federal states within the United States to resort to the death penalty for the most heinous crimes; and [that] further, the function of this Court is to resolve international legal disputes between States, *inter alia* when they arise out of the interpretation or application of international conventions, and not to act as a court of criminal appeal".

It finally observed that

> "the international responsibility of a State is engaged by the action of the competent organs and authorities acting in that State, whatever they may be; [that] the United States should take all measures at its disposal to ensure that Walter LaGrand is not executed pending the final decision in these proceedings; [that] according to the information available to the Court, implementation of the measures indicated in the present Order falls within the jurisdiction of the Governor of Arizona; [that] the Government of the United States is consequently under the obligation to transmit the present Order to the said Governor; [that] the Governor of Arizona is under the obligation to act in conformity with the international undertakings of the United States".

In each of the cases concerning *Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) (Yugoslavia v. Spain) (Yugoslavia v. United Kingdom)* and *(Yugoslavia v. United States of America)* the Applicant also made a request for the indication of provisional measures on the same day on which the Application was filed (see above, p. 237). Eleven days later the Court held hearings on the ten requests which lasted three days (see above, p. 302, under *(e)*). Three weeks after the hearings the Court made an Order rejecting the requests for provisional measures in each of the ten cases; for two of the cases it further ordered that they be removed from the General List (see above, p. 291, under *(c)*).

(k) *Counter-claims*

(Rules, Art. 80)

In the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria)*, the respondent State presented counter-claims in its Counter-Memorial. By an Order the Court found that the claims in the respondent State's Counter-Memorial constituted indeed counter-claims, that they met the requirement of jurisdiction set out in Article 80, paragraph 1, of the Rules of Court, that they rested on facts of the same nature as the corresponding claims of the applicant State and pursued the same legal aims, that they were therefore "directly connected with the subject of the claim[s] of the other [P]arty"; and that they were therefore "admissible as such and form[ed] part of the current proceedings" (see above, p. 204).

(l) *Intervention*

(Statute, Art. 62; Rules, Arts. 81 and 83)

In the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*, a third State filed a request for permission to intervene in the case. In its request, it was stated that the purpose of its intervention would be "to protect [its] legal rights in the Gulf of Guinea by all legal means" and "to inform the Court of [its] legal rights and interests so that these may remain unaffected as the Court proceeds to address the question of the maritime boundary between [the Applicant and the Respondent State]". It made it clear that it did not seek to intervene in those aspects of the proceedings that related to the land boundary between the Applicant and the respondent State, nor to become a party to the case. It further stated that, although it would be open to the three countries to request the Court not only to determine the maritime boundary between the Applicant and respondent State but also to determine its own maritime boundary with these two States, it had made no such request and wished to continue to seek to determine its maritime boundary with its neighbours by negotiation (see above, p. 204).

(m) *Discontinuance*

(Statute, Art. 48; Rules, Arts. 88 and 89)

In the case concerning the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)* the applicant State informed the Court that it wished to discontinue the proceedings with prejudice. After the other Party had informed the Court that it concurred in the discontinuance with prejudice, the Court made an Order recording the discontinuance and directing the removal of the case from the List (see above, p. 225).

(n) *Separate and dissenting opinions and declarations*

(Statute, Art. 57; Rules, Art. 95, para. 2)

In the case concerning *Fisheries Jurisdiction (Spain* v. *Canada)*, the President and three judges appended separate opinions to the Judgment of the Court; the Vice-President, three other judges and one of the judges *ad hoc* appended dissenting opinions (see above, p. 220).

In the case concerning the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections *(Nigeria* v. *Cameroon)*, the Vice-President, one other judge and one of the judges *ad hoc* appended dissenting opinions to the Judgment (see above, p. 230).

In the case concerning *LaGrand (Germany v. United States of America)*, one judge appended a declaration to the Order of the Court on the request for the indication of provisional measures; the President appended a separate opinion (see above, p. 237).

In each of the cases concerning *Legality of Use of Force (Yugoslavia v. Belgium)*, *(Yugoslavia v. Canada)*, *(Yugoslavia v. Netherlands)* and *(Yugoslavia v. Portugal)*, Judge Koroma appended a declaration to the Order of the Court on the request for the indication of provisional measures; Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions; and Vice-President Weeramantry, Acting President, Judges Shi and Vereshchetin and Judge *ad hoc* Kreća appended dissenting opinions (see above, pp. 243, 247, 260 and 263).

In each of the cases concerning *Legality of Use of Force (Yugoslavia v. France)*, *(Yugoslavia v. Germany)* and *(Yugoslavia v. Italy)*, Vice-President Weeramantry, Acting President, and Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court on the request for the indication of provisional measures; Judges Oda and Parra-Aranguren appended separate opinions; and Judge *ad hoc* Kreća appended a dissenting opinion (see above, pp. 250, 253 and 256).

In the case concerning *Legality of Use of Force (Yugoslavia v. Spain)*, Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court on the request for the indication of provisional measures; and Judges Oda, Higgins, Parra-Aranguren and Kooijmans and Judge *ad hoc* Kreća appended separate opinions (see above, p. 266).

In the case concerning *Legality of Use of Force (Yugoslavia v. United Kingdom)*, Vice-President Weeramantry, Acting President, and Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court on the request for the indication of provisional measures; Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions; and Judge *ad hoc* Kreća appended a dissenting opinion (see above, p. 269).

In the case concerning *Legality of Use of Force (Yugoslavia v. United States of America)*, Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court on the request for the indication of provisional measures; Judges Oda and Parra-Aranguren appended separate opinions; and Judge *ad hoc* Kreća appended a dissenting opinion (see above, p. 272).

(o) *Reading of the decision of the Court*

(1) *Judgments*

(Statute, Art. 58; Rules, Art. 59)

The Judgments of the Court in the case concerning *Fisheries Jurisdiction (Spain v. Canada)* and in the case concerning the *Request for Interpretation of the Judgment of 11 June 1998 in the Case concerning the* Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections *(Nigeria v. Cameroon)* were read at public sittings; in view of the length of the texts, the President omitted or summarized certain passages.

(ii) *Orders*

The Orders on the requests for the indication of provisional measures in the case concerning *LaGrand (Germany v. United States of America)* and in each of the cases concerning *Legality of Use of Force (Yugoslavia v. Belgium), (Yugoslavia v. Canada), (Yugoslavia v. France), (Yugoslavia v. Germany), (Yugoslavia v. Italy), (Yugoslavia v. Netherlands), (Yugoslavia v. Portugal), (Yugoslavia v. Spain), (Yugoslavia v. United Kingdom)* and *(Yugoslavia v. United States of America)* were also read at public sittings, by the Vice-President, Acting President. To facilitate the reading of the Orders in the ten cases concerning *Legality of Use of Force*, certain practical arrangements had been made by the Court: the Vice-President, Acting President, read the decisions in their English alphabetical order, which was also the order in which the various cases had been entered on the Court's General List. He started by reading the text of the Court's decision in the case concerning *Legality of Use of Force (Yugoslavia v. Belgium)*. In the following cases, he read only those parts of the Orders which differed as regards the arguments of the Applicant, the arguments of the Respondent or the reasoning of the Court. The Vice-President, Acting President, observed that these practical arrangements were without prejudice to any subsequent decision by the Court, pursuant to Article 47 of its Rules, at any time to direct that proceedings be joined, or to direct common action in respect of one or more elements of the proceedings pending before it. As usual certain passages were omitted or summarized.

4. Advisory Proceedings

(a) *Request for opinion*

(Statute, Arts. 65 and 66, para. 1; Rules, Arts. 103 and 104)

In the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* the Court was seised of a request for an advisory opinion, "on a priority basis", by the Economic and Social Council of the United Nations (see above, pp. 275-276). The request was transmitted by the Secretary-General. The Registrar immediately notified the request to all States entitled to appear before the Court.

(b) *Dossier of documents*

(Statute, Art. 65, para. 2; Rules, Art. 104)

In the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* the Secretary-General of the United Nations transmitted to the Court, in several instalments, a dossier of documents likely to throw light upon the question.

(c) *Special and direct communication*

(Statute, Art. 66, para. 2)

In the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, the Senior Judge, Acting President, decided that the United Nations and the States which are parties to the Convention on the Privileges and Immunities of the United Nations adopted by the United Nations General Assembly on 13 February 1946 were likely to be able to furnish information on the question raised. The Registrar proceeded to notify the United Nations and those States by special and direct communication (see above, p. 276).

(d) *Fixing of time-limits*

(Statute, Arts. 48 and 66, paras. 2, 4, and 68; Rules, Arts. 13, para. 3, 103 and 105)

In the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, the Senior Judge, Acting President, in view of the fact that the request was made "on a priority basis", fixed relatively short time-limits for the submission of the written statements and of the written comments on those statements.

(e) *Submission of written statements and comments*

(Statute, Art. 66, paras. 2 and 4; Rules, Art. 105)

In the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, written statements were filed by the United Nations and by seven States within the time-limit fixed; the filing of a written statement shortly after the expiry of the time-limit by another State was authorized. A related letter was also received from yet another State. Written comments on the statements were submitted by the United Nations and by three States, also within the time-limit fixed. Upon receipt of those statements and comments, the Registrar communicated them to all States having taken part in the written proceedings (see above, p. 276).

The Registrar also communicated to those States the text of the introductory note to the dossier of documents submitted by the Secretary-General. In addition, the President of the Court granted Malaysia's request for a copy of the whole dossier; on the instructions of the President, the Deputy-Registrar also communicated a copy of that dossier to the other States having taken part in the written proceedings, and the Secretary-General was so informed.

(f) *Accessibility of documentation to the public*

(Rules, Art. 106)

In the case concerning the *Difference Relating to Immunity from Legal*

Process of a Special Rapporteur of the Commission on Human Rights the Court decided to make the written statements and comments submitted to it accessible to the public, with effect from the opening of the oral proceedings.

(g) *Oral proceedings*

(Statute, Art. 66; Rules, Art. 105, para. 2 *(b)*)

In the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* oral proceedings were held during which statements were made, in the first round, by the United Nations and three States and in the second round by the United Nations and two States (see above, p. 276).

(h) *Questions put by judges*

(Statute, Art. 68; Rules, Arts. 61 and 102)

During the oral proceedings in the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Members of the Court put questions to the Secretary-General's representative, who replied both orally and in writing. Copies of the written replies were communicated to all the States having taken part in the oral proceedings; one State submitted written comments on these replies.

(i) *Separate and dissenting opinions*

(Rules, Art. 107, para. 3)

In the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, the Vice-President and two judges appended separate opinions to the Advisory Opinion; one judge appended a dissenting opinion (see above, p. 288).

(j) *Public reading of the Advisory Opinion*

(Statute, Art. 69; Rules, Art. 107, para. 1)

The Advisory Opinion in the case concerning the *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* was read at a public sitting; in view of the length of the text, the President omitted or summarized certain passages.

III. Museum of the Court

On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, inaugurated the Museum of the International Court of Justice (and of the other institutions in the Peace Palace) situated in the south wing of the Peace Palace.

Its collection presents an overview of the theme "Peace through Justice", highlighting the history of the Hague Peace Conferences of 1899 and 1907; the creation at that time of the Permanent Court of Arbitration; the consequent construction of the Peace Palace as a seat for International Justice; and the history and functioning of the Court (The genesis of the United Nations; the Court, and its Registry; the attire of the judges; the Bench at present; the provenance of judges and cases; the procedure of the Court; the world's legal systems; the case-law of the Court; prominent visitors) and of its immediate predecessor at the time of the League of Nations, the Permanent Court of International Justice.

IV. VISITS

A. Visit by the Secretary-General of the United Nations

On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, made an official visit to the Court. He was received by the Members of the Court and had a private exchange of views with them. Afterwards the Secretary-General inaugurated the Court's Museum.

B. Visits of Heads of State

On 1 October 1998, H.E. Mr. Petar Stoyanov, President of the Republic of Bulgaria, was received by the Court. In the Red Room adjoining the Great Hall of Justice, the President of the Court, Judge Stephen M. Schwebel gave a welcome speech, in which he briefly evoked the cases having involved Bulgaria before the International Court of Justice and its predecessor, the Permanent Court of International Justice. He praised the country's dedication to the application of international law. "In 1990 Bulgaria turned another page of its history and chose the path of democracy and international responsibility. Its new Constitution of 1991 reflects its dedication to the rule of international law and to respect for human rights", President Schwebel said, expressing satisfaction at Bulgaria's signature, in 1992, of a declaration recognizing the compulsory jurisdiction of the Court. President Stoyanov of Bulgaria, in his response, declared that his country held the International Court of Justice in "high regard", *inter alia*, because of its "independence" and "impartiality", and that this was the principal reason for Bulgaria's recognition of the compulsory jurisdiction of the Court. He added that in recent years special attention had been paid in his country to respect for human rights and to the rule of international law, with a view to fostering the emergence of a "justice equal for all".

On 20 January 1999, H.E. Mr. Martti Ahtisaari, President of the Republic of Finland, was received by the Court in the Great Hall of Justice. At a sitting attended by the diplomatic corps, representatives of the Dutch Government and Parliament, as well as other authorities of the host State, members of the Permanent Court of Arbitration, the International Criminal Tribunal for the Former Yugoslavia, the Iran-United States Claims Tribunal, the Organization for the Prohibition of Chemical Weapons, the Hague Conference on Private International Law and other institutions, the President of the Court, Judge Stephen M. Schwebel, made a welcoming speech in which he first referred to Finland's contribution to the development of international law. "Finland has repeatedly demonstrated its ability to act as an intermediary between East and West", he said, recalling that the name of Helsinki had been "evocative of respect for and protection of human rights" since the adoption, in that city, of the Final Act of the Conference on Security and Co-operation in Europe in 1975. President Schwebel then evoked a dispute between Finland and Denmark which was brought to the Court at the beginning of the 1990s concerning a proposed suspension bridge over the strait of the Great Belt — a bridge which was finally built thanks to an amicable settlement reached between the Parties. In President Schwebel's words, the case "not only illustrated the Court's increasing tendency to be seen as a partner in preventive diplomacy", it also "demonstrated the spirit of mutual co-operation and good faith negotiation that have long characterized Finland's foreign relations". In his response, President Ahtisaari hailed the work being done by the International Court of Justice, which, he said, "has significantly strengthened the rule of law in international relations". He called upon States to "be more numerous . . . to recognize the compulsory jurisdiction of the Court as binding" and to be more active in submitting disputes to it which threaten international peace and security. He further pleaded in favour of a broadening of the access to the Court, indicating that the United Nations Secretariat and States should be authorized to request advisory opinions. Concerning the needs of the new millennium with regard to international law, the President of Finland stated that the Court would play a "central role", particularly in "formulating specific international regulations that exhaustively cover all aspects of transnational activities and phenomena" thanks to its "work of interpreting and applying an ever-expanding body of law".

C. Visit of Prime Minister

On 18 November 1998, H.E. Mr. Armen Darbinian, Prime Minister of the Republic of Armenia, was received by the Court. In the Red Room adjoining the Great Hall of Justice, the President of the Court, Judge Stephen M. Schwebel, gave a welcome speech, in which he expressed satisfaction at Armenia's recent constitution, which "reflects Armenia's commitment to respect for international law" and "contains a catalogue of human rights, including modern economic, social and cultural rights, which remains open for additional and newly developing principles of international human rights law". He also praised the fact that Armenia, "an ancient country situated at the crossroads of continents, civilizations and religions", and which "has arisen out of its tormented history to achieve independence", was participating actively in various regional and international organizations. He recalled that Armenia's Permanent Representative to the United Nations was Chairman of the Fifth Committee of the General Assembly (Administrative and Budgetary matters). The Prime Minister of Armenia, in his response, emphasized his country's wish to reach a "balanced development" built upon economic and social programmes, but also upon the protection and promotion of human rights and fundamental freedoms. "We see the rule of law and law enforcement as two prerequisites for the formation of a civil society", he said. Mr. Darbinian further stated that Armenia viewed "regional co-operation in the Caucasus amongst the top priorities in its foreign policy" and wished "to create peace in this region – a peace based on political and economic co-operation".

V. REPORT AND REPRESENTATION OF THE COURT AT THE GENERAL ASSEMBLY

On the occasion of the fifty-third session of the General Assembly, the Court submitted a report on its activities covering the period from 1 August 1997 to 31 July 1998 (A/53/4). This report was divided into eight parts, relating to the composition, jurisdiction and judicial work of the Court, the role of the Court, visits, lectures, administrative questions, and the Court's publications and documents. The General Assembly took note of the report at its 44th plenary meeting held on 27 October 1998.

On that occasion the President, who, with the Registrar, represented the Court at the fifty-third session of the General Assembly, addressed that body on the role and functioning of the Court. In his address, the President referred to the fact that the Court had been examining the consequences of its increased workload and had consequently adopted certain measures and practices to accelerate its work. The text of that address is reproduced in the Appendix to this Chapter (see below pp. 316-323). Those Members of the Court who were present in New York also attended part of the fifty-third session of the General Assembly.

A report dealing with the period 1 August 1998 to 31 July 1999 will be submitted on the occasion of the fifty-fourth session of the General Assembly (A/54/4).

VI. APPLICATIONS FROM PRIVATE PERSONS

Private persons frequently apply to the Court for the purpose of obtaining a decision on matters at issue between them and the authorities of their own or of another country. Between 1 August 1998 and 31 July 1999 the Court received approximately 2,000 requests of this kind. The writers were informed that, according to Article 34 of the Statute, "only States may be parties in cases before the Court".

APPENDIX

1. ACTION PURSUANT TO ADVISORY OPINIONS OF THE COURT

The present heading contains the information received in the Registry between 1 August 1998 and 31 July 1999 concerning action taken pursuant to certain Advisory Opinions of the Court. The Registry, which does not take the initiative of seeking such information, publishes it without comment as and when it is received and can accept no responsibility in connection with it.

Legality of the Threat or Use of Nuclear Weapons

By a note dated 15 October 1996 the Secretary-General of the United Nations transmitted the text of the Advisory Opinion given by the Court on 8 July 1996[1] to the General Assembly (United Nations doc. A/51/218).

At the 79th plenary meeting of its fifty-first session, held on 10 December 1996, the General Assembly adopted resolution 51/45 M, and at the 67th plenary meeting of its fifty-second session, held on 9 December 1997, resolution 52/38 O, the full texts of which are reproduced in *I.C.J. Yearbook 1996-1997*, pp. 205-206, and *I.C.J. Yearbook 1997-1998*, pp. 286-288, respectively.

At the 79th plenary meeting of its fifty-third session, held on 4 December 1998, the General Assembly adopted resolution 53/77 W, the full text of which reads as follows:

> "Follow-up to the Advisory Opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*
>
> *The General Assembly*,
>
> *Recalling* its resolutions 49/75 K of 15 December 1994, 51/45 M of 10 December 1996 and 52/38 O of 9 December 1997,
>
> *Convinced* that the continuing existence of nuclear weapons poses a threat to all humanity and that their use would have catastrophic consequences for all life on Earth, and recognizing that the only defence against a nuclear catastrophe is the total elimination of nuclear weapons and the certainty that they will never be produced again,
>
> *Reaffirming* the commitment of the international community to the goal of the total elimination of nuclear weapons and the creation of a nuclear-weapon-free world,
>
> *Mindful* of the solemn obligations of States parties, undertaken in article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, particularly to pursue negotiations in good faith on effec-

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[1] See *I.C.J. Yearbook 1995-1996*, pp. 212-223.

tive measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament,

Recalling the principles and objectives for nuclear non-proliferation and disarmament adopted at the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, and in particular the objective of determined pursuit by the nuclear-weapon States of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons,

Recalling also the adoption of the Comprehensive Nuclear-Test-Ban Treaty in its resolution 50/245 of 10 September 1996, and expressing its satisfaction at the increasing number of States that have signed and ratified the Treaty,

Recognizing with satisfaction that the Antarctic Treaty and the treaties of Tlatelolco, Rarotonga, Bangkok and Pelindaba are gradually freeing the entire southern hemisphere and adjacent areas covered by those treaties from nuclear weapons,

Noting the efforts by the States possessing the largest inventories of nuclear weapons to reduce their stockpiles of such weapons through bilateral and unilateral agreements or arrangements, and calling for the intensification of such efforts to accelerate the significant reduction of nuclear-weapon arsenals,

Recognizing the need for a multilaterally negotiated and legally binding instrument to assure non-nuclear-weapon States against the threat or use of nuclear weapons,

Reaffirming the central role of the Conference on Disarmament as the single multilateral disarmament negotiating forum, and regretting the lack of progress in disarmament negotiations, particularly nuclear disarmament, in the Conference on Disarmament during its 1998 session,

Emphasizing the need for the Conference on Disarmament to commence negotiations on a phased programme for the complete elimination of nuclear weapons with a specified framework of time,

Desiring to achieve the objective of a legally binding prohibition of the development, production, testing, deployment, stockpiling, threat or use of nuclear weapons and their destruction under effective international control,

Recalling the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*, issued on 8 July 1996,

Taking note of the relevant portions of the note by the Secretary-General relating to the implementation of resolution 52/38 O,

1. *Underlines once again* the unanimous conclusion of the International Court of Justice that there exists an obligation to

pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control;

2. *Calls once again upon* all States to fulfil immediately that obligation by commencing multilateral negotiations in 1999 leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination;

3. *Requests* all States to inform the Secretary-General of the efforts and measures they have taken on the implementation of the present resolution and nuclear disarmament, and requests the Secretary-General to apprise the General Assembly of that information at its fifty-fourth session;

4. *Decides* to include in the provisional agenda of its fifty-fourth session in the item entitled 'Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*'." [*Footnotes not reproduced.*]

Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights

By a letter dated 5 May 1999 the Secretary-General of the United Nations transmitted the text of the Advisory Opinion given by the Court on 29 April 1999 (see above, p. 277) to the President of the Economic and Social Council, informing him that he [the Secretary-General] had also requested the United Nations High Commissioner for Human Rights to transmit a copy of the advisory opinion to the Chairman of the Commission on Human Rights (United Nations doc. E/1999/49).

The Secretary-General sent a further letter to the President of the Economic and Social Council, dated 21 July 1999 (United Nations doc. E/1999/49/Add.1), the full text of which reads as follows:

> "Further to my letter to you of 5 May 1999 attaching the advisory opinion of the International Court of Justice of 29 April 1999 on the difference relating to immunity from legal process of a Special Rapporteur of the Commission on Human Rights, I have the honour to bring the following to your attention.
>
> During a meeting on 14 May 1999, the Legal Counsel officially transmitted a copy of the advisory opinion to the Permanent Representative of Malaysia to the United Nations. At that meeting, the Legal Counsel emphasized the Court's opinion, *inter alia*, that the Government of Malaysia did not comply with its obligation to inform the Malaysian courts of the Secretary-General's finding, upheld by the Court, that Dato' Param Cumaraswamy is entitled to immunity from legal process and 'that the Government of Malaysia has the obligation to communicate the advisory opinion to the Malaysian courts *in order that Malaysia's international obligations be given effect and Dato' Param Cumaraswamy's immunity be*

> *respected*" (emphasis added). The Legal Counsel also recalled that, pursuant to Section 30 of the Convention, the opinion given by the Court shall be accepted as decisive by the parties.
>
> In his letter of 18 June 1999, the Permanent Representative of Malaysia transmitted a copy of a facsimile dated 15 June 1999 from the Minister for Foreign Affairs of Malaysia informing me that the Government of Malaysia had conveyed the advisory opinion to the competent judicial authorities. On 29 June 1999, the Legal Counsel again met with the Permanent Representative of Malaysia to acknowledge receipt of the Minister for Foreign Affairs' facsimile and to elicit an official communication from the Government of Malaysia on further efforts to fulfil its obligations. In the absence of a response from the Government, the Legal Counsel, in a letter dated 8 July 1999 to the Permanent Representative of Malaysia, expressed appreciation that the Government of Malaysia had conveyed the advisory opinion to the competent judicial authorities and requested further information as to the manner in which the Government would give effect to its obligations and to the Special Rapporteur's immunity from legal process.
>
> As the Economic and Social Council will consider this matter at its current substantive session, you should be aware that, notwithstanding the Legal Counsel's efforts and Dato' Param Cumaraswamy's motions to dismiss the four lawsuits pending against him in the Malaysian civil courts, the competent judicial authorities have fixed the first suit for case management on 6 August 1999; fixed the application to strike the second and third suits for hearing on 5 August 1999, and postponed the application to strike the fourth suit."

2. The Role and Functioning of the Court

At the 44th meeting of the fifty-third session of the General Assembly, held on 27 October 1998, at which the Assembly took note of the report of the Court for the period from 1 August 1997 to 31 July 1998 (see above, p. 312), the President of the Court, Judge Stephen M. Schwebel, gave the following address:

> "It is an honour to speak to the General Assembly under the presidency of the Foreign Minister of Uruguay, Didier Opertti Badán, an international lawyer with a notable record of service to his country, to the Organization of American States and to the United Nations. We in the Court recall with the greatest respect and affection the two distinguished Uruguayan Members of the Court, Enrique Armand-Ugon and, more recently, Eduardo Jiménez de Aréchaga, who, like Dr. Opertti, served as a Minister of Uruguay, and who was President of the Court.
>
> In presenting to the General Assembly the Annual Report of the

International Court of Justice, permit me initially to recall that this year the international community took an extraordinary step towards the creation of an International Criminal Court, a court to try individuals for grave, specified international crimes. When that Court is established, it will make its contribution to the development and application of a more effective international law. It will join the family of international judicial bodies created in past decades and more recently, a family whose father is the World Court – the popular name for the Permanent Court of International Justice and the International Court of Justice – which has successfully operated for more than 70 years. This year is notable in the life of international courts for another reason as well, for it marks the first case before the International Tribunal for the Law of the Sea.

A measure of the achievement of the World Court is that today it is taken for granted that permanent international tribunals can function effectively. What was the untested ideal of the peace movement at the dawn of the 20th century has become a reality at its sunset, in so far as it has been demonstrated and accepted that the World Court and other international tribunals can contribute significantly to the peaceful and just settlement of international disputes.

Yet the treasured ideal of the early peace movement – that international judicial settlement would be *the* substitute for war – has been shown to have been unrealistic. International judicial settlement does not produce peace in the large; rather it is peace that is conducive to the settlement of inevitable international disputes by international adjudication. In times of high international tension, States avoid judicial recourse, in times of low international tension, States are more inclined to settle their disputes judicially.

That at any rate may be one important reason why today the International Court of Justice is as busy as it and its predecessor have been since 1922.

In so far as their jurisdiction does not duplicate that of pre-existing courts, the creation of specialized and regional international courts is to be welcomed. It reflects the vitality and complexity of international life. It evidences the understanding that the effectiveness of international law can be increased by equipping legal obligations with means of their determination and enforcement.

The proliferation of international courts at the same time raises the question of the role of the International Court of Justice, and of problems proliferation may pose.

The Charter of the United Nations provides that the International Court of Justice shall be 'the principal judicial organ of the United Nations'. The Court has thus been endowed with a special, and the most senior, judicial position within the United Nations system. As domestic legal systems have a supreme court, the international community has its principal judicial organ. But the International Court of Justice is not, or at any rate is not now, a supreme court of appeal from other international judicial bodies, and still less a court of appeal from national courts.

While not acting as a court of appeal, the International Court of Justice has acted as the principal judicial organ of the United Nations in more than one way.

First of all, the Court contributes to the peaceful settlement of international disputes in furtherance of the first Purpose of the United Nations, 'to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes which might lead to a breach of the peace'.

On occasion the Court may deal with disputes which, if unsettled, might lead to a breach of the peace. Indeed, the Court has dealt with cases which did lead to hostilities. Despite that fact, those disputes were submitted to the Court, sometimes by bilateral agreement, other times by unilateral application; and they were resolved without further hostilities, and remain resolved to this day.

Thus a primary way in which the Court performs as the principal judicial organ of the United Nations is as a factor and actor in the maintenance of international peace and security. Today the Court is integrated into the United Nations system of the peaceful settlement of international disputes. The Court is no longer seen solely as the 'last resort' in the resolution of disputes. States rather may have recourse to the Court in parallel with other methods of dispute resolution, appreciating that such recourse may complement the work of the Security Council and the General Assembly as well as bilateral negotiations.

In this combined process of dispute resolution, judicial recourse has helped parties to a dispute to clarify their positions. Parties are led to reduce and transform their sometimes overstated political assertions into factual and legal claims. This process may moderate tensions and lead to a better and fuller understanding of opposing claims. The result is that, in some cases, political negotiations have resumed and succeeded before the Court rendered judgment. In other cases, the Court's decision has provided the parties with legal conclusions which they may use in framing further negotiations and in achieving settlement of the dispute.

There have been a number of examples of political and judicial resolution of disputes working in parallel. A striking instance was that of the *Territorial Dispute* between Libya and Chad, a dispute which over the years had erupted into warfare. With the assistance of the Organization for African Unity, Libya and Chad ultimately submitted the dispute to the Court. After the filing of massive pleadings and the hearing of extended oral argument, the Court determined the boundaries of these vast disputed territories. The Court's Judgment was applied by the parties; troops withdrew under the surveillance of the Security Council, and there has been peace on the border ever since.

The most recent such instance is the current case of the *Land and Maritime Boundary between Cameroon and Nigeria*. When armed incidents occurred between Cameroon and Nigeria in 1996 in the Bakassi Peninsula, both the Organization of African Unity and the Security Council were seised with the dispute. At the same time, one of the parties to the dispute brought it before the Court and requested it to indicate provisional measures – to order interim measures of protection or an interim injunction. As a result, both the Security Council – through a statement of its President – and the Court – in an Order indicating provisional measures – called on the parties to respect a cease-fire and to take the necessary steps to return their forces to the positions that they had occupied before the outbreak of fighting. The Court this year rendered a judgment on preliminary objections raised by Nigeria, holding that it has jurisdiction to give a judgment on the merits.

To turn to the second way in which the Court acts as the principal judicial organ of the United Nations – and of the world community as a whole – it is the most authoritative interpreter of the legal obligations of States in disputes between them. This indeed is its paramount function, and it antedates the establishment of the United Nations. This central role of the Court as the adjudicator of contentious differences between States represents over 70 years of achievement in settling international legal disputes.

In the third place, the Court as the Organization's principal judicial organ has acted as the supreme interpreter of the United Nations Charter (and of associated instruments such as the General Convention on Privileges and Immunities of the United Nations, which is the focus of an advisory proceeding now in progress in the Court). It has been the authoritative interpreter of the legal obligations of States under the Charter. This the Court has done in a number of advisory and contentious proceedings.

In furtherance of the Charter's Purposes and Principles, the Court has progressively interpreted the Charter and so strengthened the United Nations and through it the international community as a whole. Thus the Court affirmed the international personality of the United Nations, found that it has implied as well as express powers to accomplish its goals, determined that the assessments of the General Assembly bind Members to pay the apportioned amounts, and attributed to the General Assembly a normative role in the formation of international law. It has interpreted a voluntary abstention by a permanent member of the Security Council as not debarring adoption of a resolution. These examples are illustrative rather than exhaustive of a number of such important holdings.

Challenging questions of the interpretation of the Charter are currently before the Court, including the boundaries between the powers of principal organs of the United Nations. The cases brought by Libya against the United Kingdom and the United States arising out of the *Lockerbie* atrocity raise issues of the relationship between Security Council resolutions adopted under Chapter VII of the Charter and the judicial role of the Court.

I said earlier that international adjudication is not the substitute for war; that peace conduces to international adjudication rather than that international adjudication produces peace. Largely speaking, that is true. The Permanent Court of International Justice did not prevent, and could not reasonably have been expected to prevent, World War II. But as noted the International Court of Justice does work as a significant element in the peace-promoting machinery of the United Nations.

While the Court and other principal organs of the United Nations may work together, it is vital that the judicial independence of the Court is maintained. That is a matter of some delicacy. The Court is bound to give due weight to the powers, practice and positions of other United Nations organs, and particular weight to decisions of the Security Council taken under Chapter VII of the Charter. But in deciding on the law, the Court is and must remain free of the political influence of the United Nations as it is bound to remain free of the political influence of any of its Members.

Finally, there is another characteristic that distinguishes the International Court of Justice from specialized and regional international tribunals. The Court is the only truly universal judicial body of general jurisdiction. Unlike specialized judicial and arbitral bodies, the Court enjoys comprehensive jurisdiction in inter-State disputes. Unlike bilateral or regional bodies, the Court is available to all States of the international community, on all aspects of international law.

The Court's decisions, large and small, general and particular, may have an influence beyond the parties in dispute and beyond the issues in dispute. The Court has contributed to the growth of international law, to a universal system of international law. Over the years, the Court has interpreted, refined and advanced principles of international law that govern the whole of international society.

It is inevitable that other international tribunals will apply the law whose content has been influenced by the Court, and that the Court will apply the law as it may be influenced by other international tribunals. At the same time, it is possible that various courts may arrive at different interpretations of the law. Proliferation risks conflict.

But the risk should not be exaggerated. While in principle there is a single system of international law, in practice there are various views on issues of the law, and not only between international tribunals and among other authoritative interpreters of the law. There are differences within the International Court of Justice itself.

That is marked not only by separate and dissenting opinions, but in adjustments of the holdings of the Court over the years.

In practice international courts may be expected to demonstrate due respect for the opinions of other international courts. The International Court of Justice looks forward to working harmoniously with other international tribunals. But the fabric of international law and life is, it is believed, resilient enough to sustain such occasional differences as may arise.

Mr. President, permit me to turn now to particular elements of the work of the Court. I do not wish to take the time to set out what is before the General Assembly in the Report of the Court for the period from 1 August 1997 to 31 July 1998. But it should be recalled that, last year, General Assembly resolution 52/161 invited the Court to submit its 'comments and observations on the consequences that the increase in the volume of cases before the Court has on its operation . . .'

The Court's response has been circulated as a document of this General Assembly, document number A/53/326. It points out that the entire raison d'être of the Court is to deal with the cases submitted to it by States and with the requests for advisory opinions made by the United Nations and its specialized agencies. These statutory duties mean that the Court does not have programmes which may be cut or expanded at will, unlike some other United Nations organs.

Since its establishment in 1946, the Court has dealt with 77 contentious cases and 23 requests for advisory opinions. While in the sixties and seventies the Court characteristically had a few cases at a time on its docket, from the early eighties there has been a substantial increase. Today a dozen cases are pending. Moreover, as the Court's response to General Assembly resolution 52/161 explains, in some cases there are 'cases within cases': requests for provisional measures, preliminary objections, counter-claims.

There is reason to surmise that this increase in recourse to the Court is likely to endure, at any rate if a state of relative détente in international relations endures. There are signs that States are acquiring a 'law habit'; the more they submit their disputes to the Court, the more inclined they may be to do so.

It is noteworthy that, whereas a few decades ago, most of the cases of the Court came from the older States, today Africa ranks high as a source of cases in the Court, and that Eastern Europe, the Middle East and East Asia, as well as the Americas, Europe, and Australasia, have brought cases before it. A diversity in the clientele of the Court that mirrors the diversity of the Court's composition is reassuring.

Moreover, the range of issues of the cases that come to the Court is remarkable. The International Court of Justice is a world court not only in its origins and composition, not only in the diversity of the parties in cases before it, but in the variety of the questions on which it is called to adjudicate and to render advisory opinions.

While the caseload of the Court has so significantly increased, it has not enjoyed a proportional growth in its resources. Today its total budget is of the order of US$11,000,000 a year, a smaller percentage of the budget of the Organization than in 1946. This has resulted in an enlarging gap between the conclusion of the written, and the opening of the oral, phase of a case, a gap caused by the backlog in the work of the Court. It is trite but true to say that justice delayed may be justice denied. Undue delay may also discourage States from resorting to the Court.

At the same time, the Court has responded quickly when the situation demands. Last April, it unanimously adopted an order of provisional measures in the case concerning the *Vienna Convention on Consular Relations*, brought by Paraguay against the United States, within five working days of the receipt of the Application.

Inadequacy of resources is one cause of delay when there is delay. The pace of the work of the Court is dependent on the pace of the processes of translation between the Court's official languages, French and English. That pace is directly affected by the number of translation staff permanently employed in The Hague – currently the whole language staff consists of just four persons – and the amount of funds in the Court's budget for engaging short-term translation and interpretation services.

The publication of the *Reports* of the Court, and even more of the *Pleadings*, is also constricted by the tiny size of the Court's staff – two persons in all; and funds for publication cannot be used to engage short-term staff to prepare publications for printing, but only for printing itself.

The Members of the Court themselves are understaffed. Several share a secretary; none enjoy the services of a clerk or research assistant, unlike many national and international courts, including the International Criminal Tribunals for the former Yugoslavia and Rwanda.

The problems of the pace of the work of the Court are not only those of shortage of staff and funds. There are steps that the Court can take within the constraints of its current resources to accelerate and publicize its proceedings. As the response to General Assembly resolution 52/161 shows, it has taken initiatives to that end. For example, it is experimenting with omission of the preparation and translation of Notes of judges in certain cases concerning preliminary objections to jurisdiction and admissibility, a step which saves time and money. It has asked parties to cases to attach only strictly needed annexes to their pleadings and to supply available translations of them. It has set up a remarkably successful website on which the Court's daily work can be followed. The website transmits over the Internet written and oral pleadings and the judgment as soon as it is rendered.

But if this principal organ of the United Nations is to function with full effectiveness and despatch, if the Court is to fulfil its potential as the Organization's principal judicial organ, then it must be afforded the resources to work as intensively and expeditiously as burgeoning international recourse to the Court demands. Those resources will be effectively employed, 'in conformity with the principles of justice and international law', to promote the settlement of international disputes and thus further the first Purpose of the United Nations.

I am grateful for your attention and consideration."

The President also gave a short address to the Sixth Committee of the General Assembly, on the docket of the Court.

CHAPTER VII

PUBLICATIONS OF THE COURT

The publications of the International Court of Justice are published by the Registry (Rules of Court, Art. 26, para. 1 *(l)*, and Art. 71, para. 6; Instructions for the Registry, Arts. 23, 43, 67-69 and 72).

Information about the publications of the present Court and those of its forerunner, the *Permanent Court of International Justice*, is given below[1].

I. GENERAL

1. Series Published by the International Court of Justice

The publications of the Court are at present classified in series as shown hereunder. Their size is 15.6 × 24 cm when they are published in paper covers and 16 × 24.5 cm when published in hard covers.

(a) *Reports of Judgments, Advisory Opinions and Orders*

This series contains the Reports of the decisions of the Court in both the English and the French texts. Each decision is published as soon as given, in an unbound fascicle which is sold separately[2]. To allow for binding, a continuous system of pagination is adopted for all the fascicles of any one year.

An analytical index is published for each year's decisions; this also may be purchased separately. A binder is available for those who obtain the separate fascicles and the index at the time of their publication. The collected decisions, with index, for each year may also be obtained ready bound together in one or two volumes.

Fifty bound volumes have so far been published, the first being the *I.C.J. Reports* for the years 1947 and 1948, which are collected in a single volume. The latest are the two volumes for 1996. (The *I.C.J. Reports 1965, 1967, 1968, 1977, 1979* and *1983* are not indexed.)

Official citation of the series: *I.C.J. Reports*, with an indication of the year. For a separate fascicle the short title of the case and the nature of the decision should be given, e.g.: *Nottebohm, Preliminary Objection, Judgment, I.C.J. Reports 1953*, p. 111; or *Nottebohm, Order of 15 January 1954, I.C.J. Reports 1954*, p. 7. (See Sec. II, pp. 332-344, below.)

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[1] The documents prepared and distributed by the Registry for information purposes are dealt with in Chapter V, above; see p. 157.

[2] See Chap. V, p. 163, above.

(b) *Pleadings, Oral Arguments, Documents*

Volumes in this series are published after the termination of each case and contain the documentation relating to the case in the original language, that is, in English or in French.

This comprises the document instituting proceedings[1], the written pleadings and their annexes[2], the verbatim record of the oral proceedings[3], any documents submitted to the Court after the closure of the written proceedings, and the correspondence. The Court however decided in 1967 that the annexes to the pleadings would no longer be printed in cases which had been removed from the General List either because the application instituting proceedings disclosed that the other side had not accepted the jurisdiction of the Court or because there had been a settlement or a discontinuance of the case.

Depending upon the length of the documents to be printed, one or more volumes are issued for each case. Thus far 129 volumes have been published. The volumes which appeared up to 31 December 1964 are sold in hard covers whereas subsequent volumes are in paper covers.

Abbreviated reference: *I.C.J. Pleadings*, with the short title of the case, e.g.: *I.C.J. Pleadings, Nottebohm*, Vol. I. (See Sec. III, pp. 348-355, below.)

(c) *Acts and Documents concerning the Organization of the Court*

Five volumes have appeared in this bilingual (English/French) series.

No. 1 is now out of print.

No. 2 contained, in paper covers, the text of the Rules of Court as amended in 1972.

No. 3 contained the texts of the Charter of the United Nations, the Statute and Rules of Court and the Resolution concerning the Internal Judicial Practice of the Court, together with certain documents relating to the Court's privileges and immunities. It was published in 1977, in paper covers.

No. 4 contained the same documents as *No. 3* but with the text of the 1978 revised Rules of Court replacing that of the 1972 amended Rules; it further included certain resolutions concerning States entitled to appear before the Court. It was published in July 1978, in paper covers.

No. 5 contains the same documents as *No. 4*, with some corrections and an additional resolution concerning a State entitled to appear before the Court. It was published in July 1990, the stock of *No. 4* having been exhausted, and is available in paper covers.

Abbreviated reference: *I.C.J. Acts and Documents*, with an indication of the number of the volume.

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[1] See Chap. V, pp. 159 and 168, above.

[2] *Ibid.*, pp. 160-161, above.

[3] *Ibid.*, pp. 161-162, above.

(d) *Yearbook*

Each year there appears a *Yearbook* in which an account is given of the work of the Court during the period from 1 August of the preceding year to 31 July of the current year. There is also a French edition of this publication, the *Annuaire*.

The present *Yearbook* is the fifty-third in the series, which started with *I.C.J. Yearbook 1946-1947*. Like the 34 preceding issues, it is sold in paper covers whereas the first 18 volumes were sold in hard covers.

Abbreviated reference: *I.C.J. Yearbook*, with an indication of the year covered by the volume, e.g.: *I.C.J. Yearbook 1954-1955*.

(e) *Bibliography of the International Court of Justice*

Early each year the Registry issues a *Bibliography* listing such works and documents relating to the Court as have come to its attention during the previous year.

Bibliographies Nos. 1-18 formed Chapter IX in the appropriate *Yearbook* or *Annuaire* up to the 1963-1964 editions. Beginning with No. 19, later *Bibliographies* were issued as separate fascicles with introduction and index in both English and French, but arranged so as to facilitate the binding of several numbers together. The latest *I.C.J. Bibliography* published is No. 49 (year 1995).

Abbreviated reference: *I.C.J. Bibliography*, with the serial number of the volume, followed, if desired, by the entry number of the work cited. E.g.: *I.C.J. Bibliography No. 7*, 2528 for the *Bibliographies* prior to No. 35, and *I.C.J. Bibliography No. 35*, 81; 150 as from 1981.

2. *Dissemination of the Publications of the International Court of Justice*

The publications of the Court are distributed free on request and as required to the governments or public services of all States entitled to appear before the Court.

They may be consulted in major law libraries, including many university libraries, certain depository libraries for United Nations publications, and libraries aided by the United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law.

They are sold by the Sales and Marketing Sections of the United Nations Secretariat:

United Nations, Room DC2-853, 2 United Nations Plaza,
New York, NY 10017, United States of America.
Tel.: 1-212-963 8302; Fax. 1-212-963 3489
E-mail: publications@un.org
or
United Nations, Room C-115, Palais des Nations,
8-14 avenue de la Paix, 1211 Geneva 10, Switzerland.
Tel.: 41-22-917 2614; Fax: 41-22-917 0027
E-mail: unpubli@unog.ch

They may also be obtained from any bookseller selling United Nations publications. *Orders and requests for information should be sent to these addresses and not to the Registry.*

A *Catalogue* is issued in English and French. It lists the sales number of each publication and its price in US dollars. It is brought up to date each year, by means either of an addendum or of a new edition. A free copy of the *Catalogue* may be obtained by applying to one of the Sales Sections of the United Nations or to the Registry.

3. Publications of the Permanent Court of International Justice

Between 1922 and 1946 the *Permanent Court of International Justice* published the following series:

Series A (Nos. 1-24): *Collection of Judgments* (up to and including 1930)
Series B (Nos. 1-18): *Collection of Advisory Opinions* (up to and including 1930)
Series A/B (Nos. 40-80): *Judgments, Orders and Advisory Opinions* (beginning in 1931)
Series C (Nos. 1-19): *Acts and Documents relating to Judgments and Advisory Opinions given by the Court* (up to and including 1930)
Series C (Nos. 52-88): *Pleadings, Oral Statements and Documents* (beginning in 1931)
Series D (Nos. 1-6): *Acts and Documents concerning the Organization of the Court*
Series E (Nos. 1-16): *Annual Reports*
Series F (Nos. 1-4): *General Indexes*

They may be consulted in certain university and other libraries with a substantial legal section.

II. Official Citation of Judgments, Advisory Opinions and Orders

In order to standardize the mode of citation of the decisions of the International Court of Justice and the *Permanent Court of International Justice*, the Court decided to use the titles below, which are listed in chronological order. Orders solely fixing or extending time-limits are omitted.

1. Permanent Court of International Justice

1922

Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference, Advisory Opinion, 1922, P.C.I.J., Series B, No. 1.

Competence of the ILO in Regard to International Regulation of the Conditions of Labour of Persons Employed in Agriculture, Advisory Opinion, 1922, P.C.I.J., Series B, No. 2.

Competence of the ILO to Examine Proposals for the Organization and Development of the Methods of Agricultural Production, Advisory Opinion, 1922, P.C.I.J., Series B, No. 3.

1923

Nationality Decrees Issued in Tunis and Morocco, Advisory Opinion, 1923, P.C.I.J., Series B, No. 4.

Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B, No. 5.

S.S. "Wimbledon", Judgments, 1923, P.C.I.J., Series A, No. 1.

German Settlers in Poland, Advisory Opinion, 1923, P.C.I.J., Series B, No. 6.

Acquisition of Polish Nationality, Advisory Opinion, 1923, P.C.I.J., Series B, No. 7.

Jaworzina, Advisory Opinion, 1923, P.C.I.J., Series B, No. 8.

1924

Mavrommatis Palestine Concessions, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2.

Monastery of Saint-Naoum, Advisory Opinion, 1924, P.C.I.J., Series B, No. 9.

Treaty of Neuilly, Article 179, Annex, Paragraph 4 (Interpretation), Judgment No. 3, 1924, P.C.I.J., Series A, No. 3.

1925

Exchange of Greek and Turkish Populations, Advisory Opinion, 1925, P.C.I.J., Series B, No. 10.

Interpretation of Judgment No. 3, Judgment No. 4, 1925, P.C.I.J., Series A, No. 4.

Mavrommatis Jerusalem Concessions, Judgment No. 5, 1925, P.C.I.J., Series A, No. 5.

Polish Postal Service in Danzig, Advisory Opinion, 1925, P.C.I.J., Series B, No. 11.

Certain German Interests in Polish Upper Silesia, Jurisdiction, Judgment No. 6, 1925, P.C.I.J., Series A, No. 6.

Interpretation of Article 3, Paragraph 2, of the Treaty of Lausanne, Advisory Opinion, 1925, P.C.I.J., Series B, No. 12.

1926

Certain German Interests in Polish Upper Silesia, Merits, Judgment No. 7, 1926, P.C.I.J., Series A, No. 7.

Competence of the ILO to Regulate Incidentally the Personal Work of the Employer, Advisory Opinion, 1926, P.C.I.J., Series B, No. 13.

1927

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Orders of 8 January, 15 February and 18 June 1927, P.C.I.J., Series A, No. 8.

Factory at Chorzów, Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9.

"Lotus", Judgment No. 9, 1927, P.C.I.J., Series A, No. 10.

Readaptation of the Mavrommatis Jerusalem Concessions, Judgment No. 10, 1927, P.C.I.J., Series A, No. 11.

Factory at Chorzów, Order of 21 November 1927, P.C.I.J., Series A, No. 12.

Jurisdiction of the European Commission of the Danube, Advisory Opinion, 1927, P.C.I.J., Series B, No. 14.

Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów), Judgment No. 11, 1927, P.C.I.J., Series A, No. 13.

1928

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 21 February 1928, P.C.I.J., Series A, No. 14.

Jurisdiction of the Courts of Danzig, Advisory Opinion, 1928, P.C.I.J., Series B, No. 15.

Rights of Minorities in Upper Silesia (Minority Schools), Judgment No. 12, 1928, P.C.I.J., Series A, No. 15.

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 13 August 1928, P.C.I.J., Series A, No. 16.

Interpretation of the Greco-Turkish Agreement of 1 December 1926 (Final Protocol, Article IV), Advisory Opinion, 1928, P.C.I.J., Series B, No. 16.

Factory at Chorzów, Merits, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17.

1929

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 25 May 1929, P.C.I.J., Series A, No. 18.

Factory at Chorzów, Order of 25 May 1929, P.C.I.J., Series A, No. 19.

Serbian Loans, Judgment No. 14, 1929, P.C.I.J., Series A, No. 20.

Brazilian Loans, Judgment No. 15, 1929, P.C.I.J., Series A, No. 21.

Free Zones of Upper Savoy and the District of Gex, Order of 19 August 1929, P.C.I.J., Series A, No. 22.

Territorial Jurisdiction of the International Commission of the River Oder, Judgment No. 16, 1929, P.C.I.J., Series A, No. 23.

1930

Greco-Bulgarian "Communities", Advisory Opinion, 1930, P.C.I.J., Series B, No. 17.

Free City of Danzig and ILO, Advisory Opinion, 1930, P.C.I.J., Series B, No. 18.

Free Zones of Upper Savoy and the District of Gex, Order of 6 December 1930, P.C.I.J., Series A, No. 24.

1931

Access to German Minority Schools in Upper Silesia, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 40, p. 4.

Customs Regime between Germany and Austria, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 41, p. 37.

Railway Traffic between Lithuania and Poland, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 42, p. 108.

Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 43, p. 128.

1932

Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 44, p. 4.

Interpretation of the Greco-Bulgarian Agreement of 9 December 1927, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 45, p. 68.

Free Zones of Upper Savoy and the District of Gex, Judgment, 1932, P.C.I.J., Series A/B, No. 46, p. 96.

Interpretation of the Statute of the Memel Territory, Preliminary Objection, Judgment, 1932, P.C.I.J., Series A/B, No. 47, p. 243.

Legal Status of the South-Eastern Territory of Greenland, Orders of 2 and 3 August 1932, P.C.I.J., Series A/B, No. 48, p. 268.

Interpretation of the Statute of the Memel Territory, Merits, Judgment, 1932, P.C.I.J., Series A/B, No. 49, p. 294.

Interpretation of the Convention of 1919 concerning Employment of Women during the Night, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 50, p. 365.

1933

Delimitation of the Territorial Waters between the Island of Castellorizo and the Coasts of Anatolia, Order of 26 January 1933, P.C.I.J., Series A/B, No. 51, p. 4.

Prince von Pless Administration, Order of 4 February 1933, P.C.I.J., Series A/B, No. 52, p. 11.

Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53, p. 22.

Prince von Pless Administration, Order of 11 May 1933, P.C.I.J., Series A/B, No. 54, p. 150.

Legal Status of the South-Eastern Territory of Greenland, Order of 11 May 1933, P.C.I.J., Series A/B, No. 55, p. 157.

Appeals from Certain Judgments of the Hungaro/Czechoslovak Mixed Arbitral Tribunal, Order of 12 May 1933, P.C.I.J., Series A/B, No. 56, p. 162.

Prince von Pless Administration, Order of 4 July 1933, P.C.I.J., Series A/B, No. 57, p. 167.

Polish Agrarian Reform and German Minority, Order of 29 July 1933, P.C.I.J., Series A/B, No. 58, p. 175.

Prince von Pless Administration, Order of 2 December 1933, P.C.I.J., Series A/B, No. 59, p. 194.

Polish Agrarian Reform and German Minority, Order of 2 December 1933, P.C.I.J., Series A/B, No. 60, p. 201.

Appeal from a Judgment of the Hungaro/Czechoslovak Mixed Arbitral Tribunal (The Peter Pázmány University), Judgment, 1933, P.C.I.J., Series A/B, No. 61, p. 208.

1934

Lighthouses case between France and Greece, Judgment, 1934, P.C.I.J., Series A/B, No. 62, p. 4.

Oscar Chinn, Judgment, 1934, P.C.I.J., Series A/B, No. 63, p. 65.

1935

Minority Schools in Albania, Advisory Opinion, 1935, P.C.I.J., Series A/B, No. 64, p. 4.

Consistency of Certain Danzig Legislative Decrees with the Constitution of the Free City, Advisory Opinion, 1935, P.C.I.J., Series A/B, No. 65, p. 41.

1936

Pajzs, Csáky, Esterházy, Order of 23 May 1936, P.C.I.J., Series A/B, No. 66, p. 4.

Losinger, Order of 27 June 1936, P.C.I.J., Series A/B, No. 67, p. 15.

Pajzs, Csáky, Esterházy, Judgment, 1936, P.C.I.J., Series A/B, No. 68, p. 30.

Losinger, Order of 14 December 1936, P.C.I.J., Series A/B, No. 69, p. 99.

1937

Diversion of Water from the Meuse, Judgment, 1937, P.C.I.J., Series A/B, No. 70, p. 4.

Lighthouses in Crete and Samos, Judgment, 1937, P.C.I.J., Series A/B, No. 71, p. 94.

Borchgrave, Judgment, 1937, P.C.I.J., Series A/B, No. 72, p. 158.

1938

Borchgrave, Order of 30 April 1938, P.C.I.J., Series A/B, No. 73, p. 4.

Phosphates in Morocco, Judgment, 1938, P.C.I.J., Series A/B, No. 74, p. 10.

Panevezys-Saldutiskis Railway, Order of 30 June 1938, P.C.I.J., Series A/B, No. 75, p. 53.

1939

Panevezys-Saldutiskis Railway, Judgment, 1939, P.C.I.J., Series A/B, No. 76, p. 4.

Electricity Company of Sofia and Bulgaria, Judgment, 1939, P.C.I.J., Series A/B, No. 77, p. 64.

Société Commerciale de Belgique, Judgment, 1939, P.C.I.J., Series A/B, No. 78, p. 160.

Electricity Company of Sofia and Bulgaria, Order of 5 December 1939, P.C.I.J., Series A/B, No. 79, p. 194.

1940

Electricity Company of Sofia and Bulgaria, Order of 26 February 1940, P.C.I.J., Series A/B, No. 80, p. 4.

2. International Court of Justice

1948

Corfu Channel, Preliminary Objection, Judgment, 1948, I.C.J. Reports 1947-1948, p. 15.

Corfu Channel, Order of 26 March 1948, I.C.J. Reports 1947-1948, p. 53.

Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter), Advisory Opinion, 1948, I.C.J. Reports 1947-1948, p. 57.

Corfu Channel, Order of 17 December 1948, I.C.J. Reports 1947-1948, p. 124.

1949

Corfu Channel, Merits, Judgment, I.C.J. Reports 1949, p. 4.

Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949, p. 174.

Corfu Channel, Order of 19 November 1949, I.C.J. Reports 1949, p. 237.

Corfu Channel, Assessment of Amount of Compensation, Judgment, I.C.J. Reports 1949, p. 244.

1950

Competence of the General Assembly for the Admission of a State to the United Nations, Advisory Opinion, I.C.J. Reports 1950, p. 4.

Protection of French Nationals and Protected Persons in Egypt, Order of 29 March 1950, I.C.J. Reports 1950, p. 59.

Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion, I.C.J. Reports 1950, p. 65.

International Status of South West Africa, Advisory Opinion, I.C.J. Reports 1950, p. 128.

Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, Second Phase, Advisory Opinion, I.C.J. Reports 1950, p. 221.

Asylum, Judgment, I.C.J. Reports 1950, p. 266.

Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case, Judgment, I.C.J. Reports 1950, p. 395.

1951

Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, I.C.J. Reports 1951, p. 15.

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III. ABBREVIATED REFERENCES TO PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

In order to standardize the abbreviated references to the *Pleadings, Oral Arguments, Documents* series of the International Court of Justice and the corresponding volumes (*Series C*) of the *Permanent Court of International Justice*, the Court decided to use the titles below, which are given in chronological order based on the date of entry of the case in the General List.

For the convenience of the reader, the names of the Parties in contentious cases (separated by a stroke if proceedings were instituted by means of a special agreement), or the name of the body which requested the advisory opinion, have been added in small type to the abbreviated references.

An asterisk indicates that a case was removed from the list before a final judgment or an advisory opinion was given, or if it failed for some other reason to reach its normal conclusion.

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1927

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CHAPTER VIII

FINANCES OF THE COURT

I. Financial Regulations

In regard to financial matters, the International Court of Justice applies Articles 32, 33, 35 and 64 of the Statute of the Court, Article 26, paragraph 1 (c), of the Rules of Court, the Staff Regulations for the Registry and the relevant resolutions of the General Assembly of the United Nations.

1. *General Regulations*

(a) *Method of covering expenditure*

Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute (see Chap. III, pp. 73-74, above), a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them. By its resolution 49/19 of 23 December 1994, the General Assembly decided that these States should contribute to the expenses of the Court for the years 1995, 1996 and 1997 in the following proportions: Nauru 0.01%, Switzerland 1.21%. By resolution 52/215, of 22 December 1997, it fixed for the years 1998, 1999 and 2000 the following proportions: Nauru 0.01%, Switzerland 1.215%.

If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations in New York.

The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization.

Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat — see

Chap. VII, p. 326, above), bank interest, etc., are also recorded as United Nations income.

(b) *Drafting of the budget*

In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. If the Court is sitting, this preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself. If the Court is not sitting, approval must be given by the President.

When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations and its unforeseen and extraordinary expenses.

Since 1974 the budget has been presented biennially.

(c) *Financing of appropriations and accounts*

The Registrar is responsible for executing the budget, with the assistance of the Finance Officer. He has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget (Instructions for the Registry, Art. 31). He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority (Instructions for the Registry, Art. 35).

The accounts of the Court are audited every year by the auditors of the Secretariat of the United Nations and/or by the Board of Auditors appointed by the General Assembly. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations (Instructions for the Registry, Art. 34).

2. *Salaries and Expenses of Judges*

(a) *Emoluments*

By virtue of Article 32, paragraph 5, of the Statute, the salaries, allowances and compensation paid to the judges are fixed by the General Assembly. In this connection, the General Assembly adopted resolutions 19 (I) of 6 February 1946, resolution 85 (I) of 11 December 1946, resolution 474 (V) of 15 December 1950, resolution 1738 (XVI) of 20 December 1961, resolution 2366 (XXII) of 19 December 1967, resolution 2890 B (XXVI) of 22 December 1971, resolution 3193 B (XXVIII) of 18 December 1973, resolution 3537 B (XXX) of 17 December 1975, resolution 31/204 of 22 December 1976, resolution 35/220 A of 17 December 1980, resolution 40/257 of 18 December 1985, resolution 43/217 of 21 December 1988, resolution 45/250 of 21 December 1990, resolution 48/252 of 26 May 1994, resolution 50/216 of 23 December 1995 and resolution 53/214 of 18 December 1998.

The emoluments of Members of the Court are made up of an annual salary which may not be decreased during the period of office (Statute of the Court, Art. 32, paras. 1 and 5). With effect from 1 January 1999, the General Assembly (resolution 53/214) has fixed the emoluments of Members of the Court at US$160,000. The General Assembly further decided that the emoluments and other conditions of service shall be reviewed every three years with the next review at its fifty-sixth session.

Under Article 32, paragraphs 2 and 3, of the Statute, the President of the Court and the Vice-President (for every day on which he acts as President) receive special allowances in addition, at a rate fixed by resolution 40/257 of 18 December 1985.

Finally, under Article 32, paragraph 4, of the Statute and General Assembly resolution 19 (1) of 6 February 1946, judges *ad hoc* chosen to sit in certain cases under Article 31 of the Statute receive daily fees. With effect from 1 January 1999, the daily fee of *ad hoc* judges has been fixed at US$438, being 1/365th of US$160,000.

The emoluments of the judges are thus as set out on the following scale:

President	US$
Annual salary	160,000
Special allowance	15,000
Vice-President	
Annual salary	160,000
Allowance equivalent to US$94 for every day on which he acts as President, up to an annual maximum of	9,400
Other Members	
Annual salary	160,000
Judges ad hoc	
Fee of US$438 for each day on which they exercise their functions	

(iv) *Pensions*

Article 32, paragraph 7, of the Statute provides: "Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to Members of the Court." The General Assembly adopted the Pension Scheme Regulations for Members of the International Court of Justice which appear as an annex to resolution 86 (I) of 11 December 1946. Amendments to these regulations were made by resolution 1408 (XIV) of 1 December 1959. The General Assembly adopted new regulations by its resolution 1562 (XV) of 18 December 1960. Some provisions of the regulations were modified by resolution 1925 (XVIII) of 11 December 1963, resolution 2367 (XXII) of 19 December 1967, resolution 2890 A (XXVI) of 22 December 1971, resolution 3193 A

(XXVIII) of 18 December 1973, resolution 3537 A (XXX) of 17 December 1975, resolution 35/220 B of 17 December 1980. The General Assembly effected further modifications by resolution 38/239 of 20 December 1983, resolution 40/257 of 18 December 1985, resolution 45/250 of 21 December 1990 and resolution 53/214 of 18 December 1998.

According to the regulations which came into operation on 1 January 1984, any Member of the Court who has ceased to hold office and who has reached the age of 60 years is entitled, if he has completed at least three years of service, to a retirement pension during the remainder of his life.

With effect from 1 January 1999 (resolution 53/214), if a Member of the Court has served a full term of nine years, the amount of the annual pension shall be US$60,000 in 1999, US$70,000 in 2000 and thereafter one-half of the annual salary. Members of the Court who were in office or elected on or before 1 January 1999, and who have served for more than nine years shall be entitled to a maximum pension of two-thirds of his or her annual salary. The retirement pension is reduced if he or she has served for less than nine years.

Furthermore, a Member of the Court who ceases to hold office before the age of 60 and who would be entitled to a retirement pension when he reached that age, may elect to receive a pension from any date after the date on which he ceases to hold office. The amount of such pension would be that amount which has the same actuarial value as the pension which would have been paid to him at the age of 60.

Provision is made also for disability pensions and pensions for widows and children.

By its resolution 31/204 of 22 December 1976, the General Assembly decided that the retirement pensions given to Members of the Court should be reviewed concurrently with the periodic revision of their annual salary.

(c) *Conditions of service*

In Section C of resolution 40/257 of 18 December 1985, the General Assembly laid down certain conditions of service applicable to Members of the Court. The text of the relevant portion of this resolution is as follows:

> "*The General Assembly*,
>
> *Recalling* its resolutions 37/237, section XIV, of 21 December 1982, 38/234, section XVII, of 20 December 1983, and 39/236, section V, of 18 December 1984, on conditions of service and compensation for officials other than Secretariat officials,
>
> *Having considered* the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions,
>
> 1. *Decides* that, with effect from 1 January 1986, the President and members of the Court who have taken up primary residence in The

> Hague, shall be reimbursed, up to a ceiling of $4,500, for the actual cost of educating their children in respect of each child each year up to the award of the first recognized degree and that provision shall be made for one related travel per year in respect of each child from the place of scholastic attendance, when outside the Netherlands, to The Hague;
>
> 2. *Decides* that, with effect from 1 January 1986, those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for at least five continuous years during service with the Court, shall be eligible to receive a lump sum equivalent to eighteen weeks of annual net base salary upon completion of their appointment and resettlement outside the Netherlands, and that those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for nine continuous years or more during service with the Court, shall receive the equivalent of twenty-four weeks of annual net base salary upon completion of service and relocation outside the Netherlands;
>
> 3. *Decides* that, with effect from 1 January 1986, in the event of the death of a member of the Court during his service, compensation shall be provided to the survivors in the form of a lump-sum payment equivalent to one month of base salary per year of service, subject to a minimum of three months and a maximum of nine months."

With effect from 1 January 1999, the ceiling for reimbursement for the actual cost of education, referred to in paragraph 1 of the above resolution, was fixed at US$15,561.

(d) *Travelling expenses*

By virtue of Article 32, paragraph 7, of the Statute, regulations made by the General Assembly fix the conditions under which Members of the Court have their travelling expenses refunded. The General Assembly adopted the Travel and Subsistence Regulations of the International Court of Justice which appear in the annex to resolution 85 (I) of 11 December 1946. On 21 December 1982, by resolution 37/240, it adopted new Travel and Subsistence Regulations of the International Court of Justice (set out in *I.C.J. Yearbook 1982-1983*, pp. 164-167).

3. Salaries, Allowances and Expenses of the Registrar and Officials of the Registry

(a) *Emoluments*

By virtue of Article 32, paragraph 6, of the Statute, the salary of the Registrar is fixed by the General Assembly on the proposal of the Court. By resolution 85 (I) of 11 December 1946 confirmed by resolution 474 (V) of 15 December 1950, the General Assembly decided that "the annual salary of the Registrar of the International Court of Justice shall be assimilated to that of a top-ranking director of the Secretariat of the

United Nations". In the existing structure, the Registrar has the rank of an Assistant Secretary-General and the Deputy-Registrar that of a Director.

Officials of the Registry in the professional category, both permanent and temporary, receive the same salary and the same allowances as officials of the United Nations belonging to the same category.

For the purposes of the schedule of post adjustments applicable to the permanent staff of the professional category, The Hague was in Class 3/2.3 as from 1 July 1999. For temporary staff of the professional category, the subsistence allowance is fixed at 374 guilders a day.

Salaries and allowances of permanent and temporary staff members in the general service category are based on the best prevailing local rates.

The figures given in the budget estimates and accounts in respect of salaries are net figures, after deduction of staff assessment.

(b) *Pensions*

By virtue of Article 12 of the Staff Regulations for the Registry, the Registrar and the officials of the Registry are participants in the United Nations Joint Staff Pension Fund. They participate on the same conditions as all other officials of the United Nations.

(c) *Travelling expenses*

Under Article 5 of the regulations concerning the travel and subsistence allowances of the Members of the International Court of Justice, dated 21 December 1982 (*I.C.J. Yearbook 1982-1983*, p. 167), the travel and subsistence provisions applicable to the Registrar of the Court are as set out in the Staff Regulations of the United Nations for officials of comparable rank, subject to any exceptions authorized by the President of the Court.

The travelling expenses of officials of the Registry are paid under conditions similar to those applied in the Secretariat of the United Nations (Staff Regulations for the Registry, Art. 12).

4. Common Services

The common services of the Court and of the Registry and the capital expenditure of the Court come under special items in the budget.

In particular, the Court pays to the Carnegie Foundation an annual contribution for the premises it occupies at the Peace Palace and in the new wing (see Chap. V, p. 150, above). The amount of the contribution was first fixed by the General Assembly in resolution 84 (I) of 11 December 1946 and has subsequently undergone successive alterations. It was increased to 1,889,672 guilders as from 1 January 1998 and to 1,936,913 guilders as from 1 January 1999.

II. BUDGET FOR THE BIENNIUM 1998-1999

1. Ordinary Expenses

The Budget of the Court for the biennium 1998-1999, which forms Part III, Section 5, of the Budget of the United Nations, was adopted by the General Assembly on 22 December 1997 (resolution 52/221); the revised appropriations were adopted by General Assembly resolution 53/215 of 18 December 1998.

PROGRAMME UN-N-08-181. MEMBERS OF THE COURT	US$	US$
Salaries and allowances	4,623,800	
Pensions	2,102,500	
Travelling expenses	496,100	
Education grants	100,100	
		7,322,500
PROGRAMME UN-N-08-182. THE REGISTRY		
Salaries — established posts	5,154,100	
Salaries — temporary posts	383,400	
Common staff costs	1,788,700	
Salaries and travel costs of temporary assistance	1,435,900	
Consultants	41,700	
Travelling on official business	45,500	
Overtime	72,000	
Representation allowance	7,200	
Hospitality	14,600	
		8,943,100
PROGRAMME UN-N-08-800. COMMON SERVICES		
Contribution to the Carnegie Foundation	2,288,900	
General operating expenses	407,700	
Contractual printing	515,200	
Contracts — external translation	211,000	
Data processing services	76,000	
Supplies and materials	169,900	
Library	105,900	
Furniture and equipment	60,600	
Miscellaneous expenses	22,900	
Acquisition/replacement office automation equipment	246,200	
Court vehicles	66,100	
		4,170,400
		20,436,000

2. Unforeseen and Extraordinary Expenses

On 22 December 1997 the General Assembly, in accordance with previous practice, adopted resolution 52/223, containing the following provisions:

> "*The General Assembly*
>
> 1. *Authorizes* the Secretary-General, with the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions and subject to the Financial Regulations of the United Nations and

the provisions of paragraph 3 below, to enter into commitments in the biennium 1998-1999 to meet unforeseen and extraordinary expenses arising either during or subsequent to that biennium, provided that the concurrence of the Advisory Committee shall not be necessary for:

……

(*b*) Such commitments as the President of the International Court of Justice certifies relate to expenses occasioned by:

(i) The designation of *ad hoc* judges (Statute of the International Court of Justice, Article 31), not exceeding a total of $300,000;
(ii) The appointment of assessors (Statute, Article 30), or the calling of witnesses and the appointment of experts (Statute, Article 50), not exceeding a total of $50,000;
(iii) The maintenance in office for completion of the cases of judges who have not been re-elected (Statute, Article 13, paragraph 3), not exceeding a total of $40,000;
(iv) The payment of pensions and travel and removal expenses of retiring judges, and travel and removal expenses and installation grant of members of the Court (Statute, Article 32, paragraph 7) not exceeding a total of $180,000;
(v) The holding of sessions of the Court away from The Hague (Statute, Article 22), not exceeding a total of $50,000."

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